INTERNATIONAL LABOUR CONFERENCE
86th SESSION 1998

VOCATIONAL ReHaBILITATION AND EMPLOYMENT OF DISABLED PERSONS

INTERNATIONAL LABOUR OFFICE GENEVA

VOCATIONAL REHABILITATION AND EMPLOYMENT OF DISABLED PERSONS

International Labour Conference
86th Session 1998

Report III (Part 1B)

Third item on the agenda:
Information and reports on the application
of Conventions and Recommendations

General Survey on the reports on the Vocational Rehabilitation and Employment (Disabled Persons) Convention (No. 159) and Recommendation (No. 168), 1983

Report of the Committee of Experts on the Application of Conventions
and Recommendations (articles 19, 22 and 35 of the Constitution)

VOCATIONAL
REHABILITATION
AND EMPLOYMENT
OF DISABLED
PERSONS

INTERNATIONAL LABOUR OFFICE · GENEVA

ISBN 92-2-110652-7
ISSN 0074-6681

First published 1998

The publication of information concerning action taken in respect of international labour Conventions and Recommendations does not imply any expression of view by the International Labour Office on the legal status of the State having communicated such information (including the communication of a ratification or declaration), or on its authority over the areas or territories in respect of which such information is communicated; in certain cases this may present problems on which the ILO is not competent to express an opinion.

ILO publications can be obtained through major booksellers or ILO local offices in many countries, or direct from ILO Publications, International Labour Office, CH-1211 Geneva 22, Switzerland. A catalogue or list of new publications will be sent free of charge from the above address.

Printed in Switzerland ATA

SUMMARY

Paragraphs

Introduction 1-50

Chapter 1. Definitions and scope 51-92

Chapter 2. Basis and scope of state obligations 93-200

Chapter 3. Vocational rehabilitation under social security schemes 201-216

Chapter 4. Difficulties of application of the instruments and prospects for ratification 217-243

Concluding remarks 244-254

Appendices

CONTENTS

Paragraphs

Introduction 1-50
- 1. General remarks 1
- 2. Background and review of standards 2-20
- 3. Standard Rules on the Equalization of Opportunities for Persons with Disabilities 21-23
- 4. Other relevant international labour standards 24-25
- 5. Practical activities of the ILO 26-31
- 6. Summary of the standards 32-44
  - 6.1. Content of the Convention 32-35
  - 6.2. Content of the Recommendation 36-44
- 7. Status of ratifications 45
- 8. Available information 46-49
- 9. Outline of the survey 50

Chapter 1. Definitions and scope 51-92
- 1. The concept of disability 51-56
- 2. Terminology 57-59
- Section I. Definition of the term "disabled person" 60-72
  - I. Criteria for identifying occupational and social disability 62-69
  - II. Method of determining disability status 70-72
- Section II. Persons covered by the instruments 73-78
- Section III. Definition of vocational rehabilitation 79-82
- Section IV. Subject-matter covered by the instruments 83-89
- Section V. The role of non-governmental organizations 90-92

Chapter 2. Basis and scope of state obligations 93-200
- Section I. Obligations of the State: Vocational rehabilitation and employment . 93-150
  - I. Basic principles of the national policy 95-120
  - II. Obligation to formulate and periodically review a national policy 121-134
  - III. Consultation of representative organizations 135-144
  - IV. Promotion of vocational rehabilitation and employment services in rural areas and remote communities 145-150
- Section II. Obligations of the State with regard to vocational rehabilitation . . . 151-183
  - I. Competent authorities and coordination of their activities 153-158
  - II. Delegation of government responsibilities to local authorities 159-160
  - III. Cooperation and coordination for the provision of vocational rehabilitation services 161-167
  - IV. Use of existing vocational rehabilitation services for workers generally 168-170

Paragraphs

V. Training and availability of rehabilitation counsellors and qualified staff 171-177
VI. Sheltered employment 178-183
Section III. Obligations of the State with regard to employment 184-200
I. Promotion of employment opportunities for disabled persons in the open labour market 185-195
II. Subsidies for adaptations to workplaces 196-197
III. Hiring subsidies 198-199
IV. Tax incentives 200

Chapter 3. Vocational rehabilitation under social security schemes 201-216
Section I. National provisions relating to occupational injury and disease compensation 209-210
Section II. National provisions relating to disability insurance schemes 211-216

Chapter 4. Difficulties of application of the instruments and prospects for ratification 217-243
Section I. Difficulties of application 217-231
Section II. Prospects for ratification 232-243

Concluding remarks 244-254

Appendices
I. Texts of Convention No. 159 and Recommendation No. 168
II. Text of Recommendation No. 99
III. Ratifications of the Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159)
IV. Table of reports due and received on the Vocational Rehabilitation and Employment (Disabled Persons) Convention (No. 159) and Recommendation (No. 168), 1983 (article 19 of the Constitution)

INTRODUCTION

1. General remarks

1. In accordance with article 19 of the Constitution of the International Labour Organization, the Governing Body of the International Labour Office decided at its 258th Session (November 1993) to invite governments to submit reports on the position of their law and practice regarding the Vocational Rehabilitation and Employment (Disabled Persons) Convention (No. 159) and Recommendation (No. 168), 1983.[1] The reports supplied in pursuance of that decision, together with those submitted in accordance with articles 22 and 35 of the ILO Constitution by the States which have ratified the Convention, have enabled the Committee of Experts on the Application of Conventions and Recommendations, in accordance with its usual practice, to carry out the first General Survey on the effect given to these instruments both in States which have ratified the Convention and in those which have not.

2. Background and review of standards

2. Very shortly after its inception, the International Labour Organization took up the question of disabled persons and invalids and where they stood vis-à-vis the world of work. Its first initiative in the field of vocational rehabilitation dates back to 1921, when it explored how the obligation to employ disabled ex-servicemen and methods of placing disabled persons in employment might be introduced in national legislation. As a result of the conclusions adopted by the experts consulted and the legislative measures that were proposed, the vocational needs of disabled workers gained international recognition for the first time in 1925, when the International Labour Conference adopted a Recommendation on compensation for industrial accidents.[2] Relegated to the background during the economic depression of the thirties, the question of rehabilitation once again came to the fore during the Second World War with the resurgence of interest in people with disabilities, partly because their numbers had grown as a result of the war and partly because disabled civilians had demonstrated their ability to fill the posts left vacant by mobilized workers, particularly in commerce and industry, to good

---

[1] See full text of Convention No. 159 and Recommendation No. 168 in Appendix I.

[2] The Workmen's Compensation (Minimum Scale) Recommendation, 1925 (No. 22).

effect. Thus, the international community deemed it necessary to enshrine in standards to be applied universally, and to implement by concerted action at various levels, the right of disabled persons to benefit from appropriate medical and occupational adaptation and rehabilitation with a view to enjoying social and occupational integration on an equal footing with other members of the community.

3. In 1944 the International Labour Conference adopted a Recommendation concerning workers with diminished capacity, which affirmed that disabled persons, whatever the origin of their disability, should be provided with full opportunities for specialized vocational guidance, vocational training, functional and occupational rehabilitation and employment on useful work.[3] However, it was in 1955 that the Conference first discussed the important question of the services to be made available to disabled persons and unanimously adopted the Vocational Rehabilitation (Disabled) Recommendation, 1955 (No. 99),[4] and until the adoption of Convention No. 159 and Recommendation No. 168, it was this international instrument which served as the basis for all national legislation and practice concerning vocational guidance, vocational training and placement of disabled persons. Furthermore, Recommendation No. 99 contains basic standards to which non-governmental organizations can refer in order to ascertain the internationally accepted components of vocational rehabilitation and the means of applying them.

4. The resolution concerning vocational rehabilitation of disabled persons and the resolution concerning disabled workers, adopted by the International Labour Conference, in 1965 and 1968 respectively, focus on the efforts required to widen vocational rehabilitation opportunities for disabled persons.

5. The International Covenant on Economic, Social and Cultural Rights, drafted in close collaboration with the ILO and adopted by the United Nations General Assembly on 16 December 1966,[5] lays down the obligation for States parties to recognize, among others, the right of individuals to earn their living by freely chosen or accepted work, and to take appropriate measures to safeguard this right. Such measures include the creation of programmes, the formulation of vocational guidance and training policies and the selection of appropriate techniques with a view to achieving constant economic, social and cultural development and full and productive employment while safeguarding the political and economic freedoms of the individual. The Covenant recalls or affirms a number of principles, including that of equality of treatment among workers in general and between men and women, including equal remuneration for work of equal value;[6] the right to a decent living and healthy and safe working conditions;

---

[3] The Employment (Transition from War to Peace) Recommendation, 1944 (No. 71).

[4] See full text of Recommendation No. 99 in Annex II.

[5] The Covenant entered into force on 3 Jan. 1976.

[6] This principle had already been laid down in the initial text of the ILO Constitution and is the subject of the Equal Remuneration Convention (No. 100) and Recommendation (No. 90), 1951.

equality of opportunity for all with regard to promotion in employment, subject only to seniority and competence; and the right to education, with its corollary, the principle of compulsory education, for the full development of the individual.

6. The United Nations General Assembly also adopted a Declaration on the Rights of Mentally Retarded Persons[7] in 1971 and a Declaration on the Rights of Disabled Persons in 1975,[8] both of which establish the same civil and political rights for mentally retarded or disabled persons as for other people. They also have the right to medical, psychological and functional care, social and medical rehabilitation, education, vocational training and rehabilitation, counselling and assistance and to placement and other services which will enable them to develop their abilities and skills to the full and hasten their integration or reintegration into society; the right to secure and retain suitable employment or to engage in a useful, productive and income-generating activity. These instruments also provide for their special needs to be taken into consideration.

7. In 1975, at one and the same session, the International Labour Conference adopted the Human Resources Development Convention (No. 142), and Recommendation (No. 150), as well as a resolution concerning the vocational rehabilitation and social reintegration of disabled or handicapped persons.

8. Convention No. 142 lays down, in Article 3(1), the obligation for ratifying States gradually to extend their systems of vocational guidance and employment information to disabled persons through appropriate programmes among other means, while Recommendation No. 150 provides, in Paragraph 53, that disabled persons should have access to vocational guidance and vocational training programmes provided for the general population or, where this is not desirable, to specially adjusted programmes; and that every effort should be made to educate the general public, the social partners and the personnel involved on the need to provide disabled persons with vocational guidance and vocational training enabling them to find suitable employment; that measures should be taken to ensure, as far as possible, their integration or reintegration into productive life in a normal working environment; and that account should be taken of the Vocational Rehabilitation (Disabled) Recommendation, 1955 (No. 99).

9. The resolution concerning the vocational rehabilitation and social reintegration of disabled or handicapped persons was especially significant since it introduced a new concept, that of the reintegration of people with disabilities in society. It recalled the relevant resolutions of 1965 concerning the vocational rehabilitation of disabled persons and of 1968 concerning disabled workers and noted that it was desirable to rehabilitate for work and reintegrate into the community an ever-greater number of physically or mentally disabled or handicapped persons, and that the need for special measures to this effect was clearly gaining recognition by public opinion. It referred to the fact that the non-governmental organization Rehabilitation International had declared the 1970s the

---

[7] Resolution No. 2856 adopted by the General Assembly on 20 Dec. 1971.

[8] Resolution No. 3447 adopted by the General Assembly on 9 Dec. 1975.

Rehabilitation Decade. Pointing out that a high proportion of disabled or handicapped persons in society was a serious drain on the national economy and could undermine the development of the country's prosperity unless effective measures were taken, the resolution called on all public authorities and employers' and workers' organizations to promote maximum opportunities for disabled or handicapped persons to secure, perform and retain suitable employment.

10. From then on the United Nations and the ILO jointly pursued the goal of "full participation and equality". In a resolution adopted on 16 December 1976, the United Nations General Assembly proclaimed 1981 the International Year of Disabled Persons with the theme "full participation" and "equality". A World Programme of Action concerning Disabled Persons was adopted for its implementation.[9] It provided for effective international and national measures to ensure the full participation of disabled persons, on an equal footing with other citizens, in the social life and development of their societies.

11. It was in this context of a new vision of the place and role of disabled persons in society that the International Labour Conference adopted a resolution in 1979 calling for consideration of the possibility of placing the question of a revision of Recommendation No. 99[10] on the agenda of a forthcoming session, and that the United Nations General Assembly proclaimed 1983-92 the United Nations Decade of Disabled Persons.[11]

12. The idea of revising the Recommendation very soon gave way to that of drafting new international labour standards which would take account, inter alia, of the need to ensure equality of opportunity and treatment for all categories of disabled persons, in both rural and urban areas, to enable them not only to secure and retain employment, but also to become integrated in the community.

13. Recommendation No. 99, which is not linked to a Convention, stood alone until Convention No. 159 and Recommendation No. 168 were adopted. The extent to which it has influenced legislation in many countries bears out the Director-General's statement in his Report of 1964[12] to the effect that while Conventions lay down obligations, it is possible, in certain areas, "that a standard which can be widely accepted may well be more effective in practice than obligations which are unlikely to be equally widely assumed" and that Recommendations should no longer be considered as the "poor relation" of Conventions.

---

[9] Resolution No. 37/52 of 3 Dec. 1982 of the United Nations General Assembly adopting the World Programme of Action concerning Disabled Persons.

[10] ILC, 65th Session, 1979.

[11] Resolution No. 37/53 of 3 Dec. 1982 of the United Nations General Assembly on the implementation of the World Programme of Action concerning Disabled Persons.

[12] ILO: *Programme and structure of the ILO*, Report of the Director-General, ILC, 48th Session, 1964, p. 170.

14. Hence, it was not a matter of replacing the Recommendation, but of supplementing it with a new one which would reflect the recognition by the community at large the right of disabled persons right to equality of opportunity and treatment with a view to their integration or reintegration in society. It was nonetheless felt necessary to provide, by means of a Convention, for a greater commitment on the part of States to building a society free of discrimination against people with disabilities. This was the general thrust of the discussions held at the International Labour Conference which led to the adoption at its 69th Session in 1983 of the Vocational Rehabilitation and Employment (Disabled Persons) Convention (No. 159) and Recommendation (No. 168).

15. In ratifying Convention No. 159 States parties undertake, in accordance with national conditions, practice and possibilities, to formulate, implement and periodically review a national policy on vocational rehabilitation and employment of disabled persons. This instrument lays down the principles for such a policy and prescribes the action to be taken at the national level to implement it. Like all the promotional Conventions, Convention No. 159 invites governments to consult the representative organizations of employers and workers on the action to be taken to give effect to the national policy. It also provides for consultation of representative organizations of and for disabled persons.

16. The new instruments are based on the view that vocational rehabilitation, freely chosen work and the opportunity to advance in employment are the essential prerequisites for the social integration of disabled persons. In pursuit of this objective, appropriate strategies and special programmes to enable disabled persons to find their place in society have to be developed.

17. These strategies are part of an endeavour by the international community to secure the full participation of people with disabilities in society, through a world programme to be implemented by States.

18. The *World Programme of Action concerning Disabled Persons* is aimed at educating the public on matters related to the concept of disability and encouraging disabled persons to organize in order to make themselves heard. Emphasizing prevention, rehabilitation and equalization of opportunities for disabled persons with a view to achieving the goal of full participation in community life and equality of opportunities, the programme assigns governments the responsibility for taking preventive measures to gradually eliminate the conditions that lead to impairment and for dealing with the consequences of disability on individuals. It is coordinated, implemented and evaluated by the United Nations Centre for Social Development and Humanitarian Affairs in Vienna. It has been prolonged for another decade (1993-2002), with the objective of achieving a society for all by the year 2010.

19. The three specialized agencies of the United Nations with a mandate to promote the goals of rehabilitation and equalization of opportunities of people with disabilities are the World Health Organization (WHO), the ILO and the United Nations Educational, Scientific and Cultural Organization (UNESCO). These agencies are endeavouring to step up their cooperation in order to promote multisectoral collaboration at the national level for people with disabilities.

Numerous activities have been carried out under the aegis of the United Nations as part of the World Programme of Action.[13]

20. Of particular importance was the adoption by a resolution of the United Nations General Assembly of a set of rules to be observed by governments in order to create the necessary conditions for achieving the objectives laid down in the World Programme of Action.[14] These rules require moral and political commitment on the part of governments, as well as the resolve to undertake the necessary measures.

3. Standard Rules on the Equalization of Opportunities for Persons with Disabilities

21. The Standard Rules, based on the philosophy of the World Programme of Action, focus on the responsibility of governments for identifying and gradually eliminating barriers to the application of the universal principle of equality to people with disabilities.

22. The Rules lay down standards concerning equality of opportunity and identify target areas for action (accessibility of the physical environment and the activities and services generally provided to all citizens: education, employment, income maintenance and social security). States undertake to create the legal bases for equalization measures and for removing conditions that may adversely affect the lives of persons with disabilities; to recognize and encourage organizations of disabled persons and guarantee their rights; and to establish coordination between different social groups (creation of multidisciplinary committees) in order to ensure a comprehensive approach to the problem of disability and ways of overcoming it. The Rules lay down guidelines for action to be taken by governments. They also provide guidance to all those involved in disability issues, and view family members as active partners in a concerted effort to improve the quality of life of people with disabilities. The need to include a rule on family life and personal integrity arose from the implementation of the World Programme of Action.

23. Provision is also made for a monitoring mechanism, which includes assisting States on request to evaluate their progress, taking account of each country's economic, social and cultural situation. States are provided with advisory services and encouraged to exchange information on their experience in the areas covered by the Rules.

---

[13] For example, the Conference on the Abilities and Needs of Disabled Persons of the Economic and Social Commission for Western Asia (20-28 Nov. 1989; Amman, Jordan), organized in collaboration with the Ministry of Social Development of Jordan and the Regional Office for the Middle East for the Welfare of the Visually Impaired, with the financial assistance of the Arab Gulf Programme for United Nations Development Organizations (AGFUND), the Development Fund of the Organization of Petroleum Exporting Countries (OPEC) and the Government of the Netherlands; and the Subregional "Seminar for the Promotion of and Multisectoral Collaboration for Disabled Persons" (28 Aug.-1 Sep. 1995, Abidjan, Côte d'Ivoire).

[14] Resolution No. 48/96 adopted by the General Assembly on 20 Dec. 1993.

4. Other relevant international labour standards

24. A look at the context in which the instruments under consideration were adopted shows the extent to which the concerns of political decision-makers with respect to people with disabilities have evolved, as have the measures taken at the international level to provide them with assistance, promote their integration in working life and enable them to participate on equal terms in community life in each country. Convention No. 159 and Recommendation No. 168 should also be placed in context vis-à-vis the cohesive and constantly evolving body of standards constituted by the relevant ILO instruments.

- The Vocational Rehabilitation (Disabled) Recommendation, 1955 (No. 99), which is the reference text in this field, has served as a basis for the national legislation of many countries, prompting them to consider the ways in which people with disabilities could be helped to adapt to the requirements of the labour market. It has also made governments aware of the human resource potential of this category of the population.
- The Discrimination (Employment and Occupation) Recommendation, 1958 (No. 111), under which ratifying States undertake to declare and pursue a policy aimed at eliminating discrimination, which is defined as any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin or such other distinction as may be determined by the Member concerned, which has the effect of nullifying or impairing equality of opportunity or treatment. Recommendation No. 111, 1958, which supplements the Convention, provides that the application of the policy of non-discrimination "should not adversely affect special measures designed to meet the particular requirements of persons who, for reasons such as … disablement … are generally recognized to require special protection or assistance" (Paragraph 6).
- The provisions of Convention No. 159 on the application of the principle of equality of opportunity and treatment between disabled men and women workers were largely based on the Equal Remuneration Convention (No. 100) and Recommendation, 1951 (No. 90).
- The Employment Policy Convention, 1964 (No. 122), requires, as a major goal, a policy designed to promote full, productive and freely chosen employment. Its accompanying Recommendation (No. 122) provides in this context that efforts should be made to meet the needs of disabled persons. Under the Employment Policy (Supplementary Provisions) Recommendation, 1984 (No. 169), in the context of an overall employment policy, measures should be adopted to respond to the needs of disabled persons, including measures of vocational rehabilitation. Furthermore, the

Recommendation stresses that incentives appropriate to national conditions and practice might be provided in order to facilitate the implementation of the measures referred to above.

— The Human Resources Development Convention, 1975 (No. 142), lays down the obligation gradually to extend systems of vocational guidance and information to disabled persons (Article 3, paragraph 1).

— The Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168), provides for equality of treatment for all persons protected, without discrimination on the basis of a number of grounds, including disability (Article 6(1)).

25. A number of other instruments have a more practical, albeit incidental, bearing on these matters. In chronological order of adoption, they are as follows:

— The Income Security Recommendation, 1944 (No. 67), mentions invalidity and employment injury as contingencies to be covered by compulsory social insurance. It provides that arrangements should be made to take account of loss of earnings due to disability as a condition for entitlement to benefit (Paragraph 11).

— Article 6 of the Medical Examination of Young Persons (Industry) Convention, 1946 (No. 77), Article 6 of the Medical Examination of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 78), and Paragraph 9 of the Medical Examination of Young Persons Recommendation, 1946 (No. 79), provide for measures for the vocational guidance and physical and vocational rehabilitation of children and young persons found by medical examination to be unfit or only partially fit for employment.

— The Employment Service Convention (No. 88) (Article 7(b)) and Recommendation (No. 83) (Paragraph 4(b)), 1948, refer to measures to be taken to develop special arrangements for the placement of disabled persons.

— The Minimum Wage Fixing Machinery (Agriculture) Convention, 1951 (No. 99), provides for the possibility of making exceptions in individual cases to prevent curtailment of the opportunities of employment of physically or mentally disabled workers (Article 3, paragraph 5).

— The Social Security (Minimum Standards) Convention, 1952 (No. 102), provides that the institutions administering medical care shall cooperate with the vocational rehabilitation services with a view to the re-establishment of disabled persons in suitable work (Article 35).

— The Employment Injury Benefits Convention, 1964 (No. 121) (Article 26), and the Invalidity, Old-Age and Survivors' Benefits Convention, 1967 (No. 128) (Article 13), lay down the obligation for Members to provide rehabilitation services designed to prepare disabled persons wherever possible for the resumption of their previous activity, or, if this is not possible, the most suitable alternative gainful activity, having regard to their aptitudes and capacity, and to take measures to further the placement of disabled persons in suitable employment.

— The Invalidity, Old-Age and Survivors' Benefits Recommendation, 1967 (No. 131), refers, in particular, to children of an insured person who have a chronic illness or infirmity disabling them for any gainful activity (Paragraph 1(f)(ii)).

5. Practical activities of the ILO

26. ILO action to assist member States to formulate national policy and to design, implement and evaluate programmes in the field of vocational rehabilitation and the employment of disabled persons has evolved over the years. Early technical cooperation projects helped governments, usually ministries responsible for social and labour affairs, to establish vocational rehabilitation centres and sheltered workshops. Assistance was provided on facility design, the identification of appropriate vocational skills training courses, the purchase of tools and equipment, the establishment of vocational assessment and counselling services, and the training of centre personnel.[15]

27. Later technical cooperation projects addressed the needs of disabled persons living in rural areas without access to vocational rehabilitation centres, usually located in cities and towns. These projects helped national authorities to establish community-based rehabilitation (CBR) programmes, with particular emphasis on the development of curricula and the training of CBR extension workers.[16]

28. In many developing countries, despite the provision of vocational rehabilitation services and skills training, through centres and CBR programmes, many disabled individuals have failed to obtain work. As a result, ILO technical support was sought to establish programmes to assist disabled individuals to start informal sector income-generating activities. These employment-creation programmes provide management skills training, guidance in the identification of viable local business opportunities, assistance in the preparation of business plans, and access to credit.[17] Such activities have often been undertaken in collaboration with UNESCO and WHO.

29. With the growing emphasis in many countries on equality of opportunity for persons with disabilities, a demand for "mainstream" or integrated vocational skills training opportunities has led to additional requests for ILO technical cooperation projects. These projects have assisted ministries and institutions responsible for technical and vocational education and training in adopting policies and practices, and adapting training facilities, curricula and equipment for the inclusion of trainees with disabilities. They have also provided guidance for vocational instructors and other personnel in training individuals with different types of impairments (visual, hearing, mobility, etc.).[18]

---

[15] *Angola, Dominican Republic, Ecuador, Islamic Republic of Iran, Iraq, Jordan, Kenya, Kuwait, Lesotho, Madagascar, Malawi, Nicaragua, Nigeria, Oman, Saudi Arabia, Sudan, Swaziland, United Republic of Tanzania, Togo, Trinidad and Tobago, Tunisia, Uganda, Yemen, Zambia, Zimbabwe,* and the occupied Arab territories.

[16] *Burkina Faso, Cameroon, Côte d'Ivoire, Ethiopia, Ghana, Guinea, Indonesia, Malawi, Morocco, Namibia, Nigeria, Philippines, Sudan, Syrian Arab Republic.*

[17] *Chile, Costa Rica, El Salvador, Guatemala, Honduras, Kenya, Malawi, Nicaragua, Nigeria, Pakistan, Panama, United Republic of Tanzania.*

30. Additional technical cooperation projects have been implemented in countries emerging from armed conflict, and addressed the rehabilitation and training needs of both disabled ex-combatants and disabled civilians.[19]

31. Lastly, technical cooperation activities in the form of regional technical "quadripartite" meetings, bringing together representatives of governments, employers', workers' and disabled persons' organizations, have been organized to provide policy advice in the field of disability, particularly on how to implement the provisions of Convention No. 159 in national law and practice.[20]

6. Summary of the standards

6.1 Content of the Convention

32. The Convention consists of three Parts, containing nine Articles, followed by the usual final provisions.

33. Part I (Article 1) defines the term "disabled person" and the concept of vocational rehabilitation. It specifies that the latter shall be made available to all categories of disabled persons.

34. Part II (Articles 2 to 5) lays down the principles of a national policy on vocational rehabilitation and employment of disabled persons (Article 2). The policy must ensure that appropriate measures are made available to all categories of disabled persons (Article 3) and must be based on the principle of equality of opportunity between disabled workers and other workers, and equality of opportunity and treatment between disabled men and women workers (Article 4). Article 5 provides for consultation on the implementation of the policy of the representative organizations of employers and workers, as well as representative organizations of and for disabled persons.

35. Part III (Articles 6 to 9) deals with the action to be taken to develop vocational rehabilitation and employment services for disabled persons:

- Article 6 provides that members shall take the necessary steps to give effect to Articles 2 to 5;

---

[18] *Bolivia, Brazil, Colombia, Mexico, Uruguay.*

[19] *Afghanistan, Angola, El Salvador, Iraq, Namibia, Nicaragua, Zimbabwe,* and the occupied Arab territories.

[20] Latin America (Bogotá, 1992), Caribbean (Port-of-Spain, 1994), Southern Africa (Harare, 1995).

- Article 7 provides for the setting up and evaluation of vocational guidance, vocational training, placement and employment services for disabled persons and recommends the use of services existing for workers generally;
- under Article 8, vocational rehabilitation and employment services for disabled persons should be established in rural areas and remote communities;
- Article 9 requires Members to ensure the training and availability of rehabilitation counsellors and qualified staff responsible for the vocational guidance, vocational training, placement and employment of disabled persons.

6.2 Content of the Recommendation

36. Recommendation No. 168 is divided into nine parts.

37. Part I deals with definitions and scope, along the same lines as the Convention.

38. Part II lists specific measures, both direct and indirect, that should be taken to promote the rehabilitation and employment of disabled persons. Emphasis is placed on the purpose of such measures, which is to enable these persons to become integrated or reintegrated in ordinary working life.

39. Part III recommends community participation (employers', workers' and disabled persons' organizations) in organizing and operating vocational rehabilitation services.

40. Part IV suggests specific measures to establish vocational rehabilitation services in rural areas and remote communities.

41. Part V covers the training and further training of vocational rehabilitation staff and suggests that persons engaged in vocational guidance, vocational training and placement of workers generally should have an adequate knowledge of disabilities and their limiting effects.

42. Parts VI and VII provide guidelines on the contribution that can be made by employers' and workers' organizations, as well as disabled persons and their organizations, to the development of vocational rehabilitation services. In particular, it is recommended that employers' and workers' organizations promote the integration or reintegration of disabled persons in enterprises, on the one hand, and on the other, raise the problem of their rehabilitation at trade union meetings.

43. Part VIII refers to social security schemes and the ILO instruments on social security and invites Members to bring national social security provisions into line with standards providing for the vocational rehabilitation and employment of disabled persons.

44. Part IX calls for coordination between vocational rehabilitation policies and programmes and programmes of social and economic development.

7. Status of ratifications

45. As at 12 December 1997, Convention No. 159, which entered into force on 20 June 1985, has been ratified by 59 countries, listed in Appendix III of the survey.

8. Available information

46. For this survey, the Committee used the information contained in the reports communicated under article 19 of the Constitution by 91 member States and 11 non-metropolitan territories on the position of their law and practice in regard to the matters dealt with in Convention No. 159 and Recommendation No. 168 (for those which have not ratified the Convention) and in regard to the matters dealt with in Recommendation No. 168 (for those which have ratified the Convention).[21] The Committee also analysed information communicated by States in their reports under articles 22 and 35 since ratifying the Convention.

47. The Committee takes this opportunity to urge the governments concerned to communicate regularly any legislation adopted on the subject-matter covered by these instruments, including amendments to existing texts, together with information on new practices.

48. The Committee notes with satisfaction the large number of governments that have communicated reports on the instruments under consideration. It would point out nonetheless that while some of these reports are very comprehensive, many of them do not contain the detailed information that might have been expected and only give a rough idea of the implementation of the instruments in question, in particular as regards the situation in practice. Following its usual practice, the Committee has endeavoured as far as possible to make up for this lack of information by referring to various official sources, such as government reports on the application of other instruments having a direct or indirect bearing on the matters dealt with in the Convention and Recommendation in question. In this respect, it would urge governments to step up their efforts to communicate the information requested. It cannot overemphasize this point, for government cooperation is essential if the Committee is to carry out its mandate fully and gain as broad a view as possible of the situation.

49. It should be noted that Convention No. 159 is a promotional Convention in that it does not set forth specific provisions to be incorporated directly in national legislation, but is aimed at the adoption of provisions setting goals to be reached, while leaving ratifying States a relatively broad measure of discretion as to the choice of methods for attaining them, as well as the time-scale for the measures to be taken.

---

[21] For reports communicated under article 19 of the Constitution, see Appendix IV.

9. Outline of the survey

50. This General Survey consists of four chapters. Chapter 1 covers the definitions of the key terms and expressions of the instruments under review, and examines the meaning given to them both in the instruments, and in national legislation and practice. It also defines the scope, in terms of persons and subject-matter, of the provisions of the standards and the relevant national legislation in the countries that have ratified Convention No. 159 as well as those that have not. The Committee highlights the methods used by countries whose legislation comes closest to meeting the requirements of the Convention and the Recommendation gradually to extend their scope, in terms of the persons covered by the relevant legislation and of the areas in which the State intervenes in order to achieve the objectives set by the instruments. Chapter 2 focuses on Members' obligations to formulate, implement and periodically review a national policy on vocational rehabilitation and employment of disabled persons, based on the principle of equality of opportunity between disabled workers and other workers, on the one hand, and that of equality of opportunity and treatment between disabled men and women workers, on the other. It enumerates, non-exhaustively, and describes the measures to be implemented in order to develop vocational rehabilitation and employment services for disabled persons, including in rural areas and remote communities. Chapter 3 considers vocational rehabilitation from the standpoint of social security schemes. Chapter 4 addresses the difficulties of application mentioned by States in their reports to the ILO and the prospects for ratification of Convention No. 159. The Committee ends the survey with some concluding remarks.

CHAPTER 1

Definitions and scope

1. The concept of disability

51. From the standpoint of vocational rehabilitation and employment, a clear distinction must be drawn between disability in the medical sense — which can often be precisely evaluated and concerns a broad category of persons — and the disadvantages resulting from such a disability and affecting an individual's occupational prospects.[1]

52. In 1981, the World Health Organization (WHO) classified impairments, disabilities and handicaps as follows:[2]

- impairment: any loss or abnormality of psychological, physiological or anatomical structure or function;
- disability: any restriction or lack (resulting from an impairment) of ability to perform an activity in the manner or within the range considered normal for a human being;
- handicap: a social disadvantage for a given individual, resulting from an impairment or a disability, that limits or prevents the fulfilment of a normal role (depending on age, sex, and social and cultural factors).

53. The United Nations World Programme of Action concerning Disabled Persons defines "handicap" as a function of the relationship between disabled persons and their environment: "It occurs when they encounter cultural, physical or social barriers which prevent their access to the various systems of society that are available to other citizens. Thus, handicap is the loss or limitation of opportunities to take part in the life of the community on an equal level with others."[3]

54. These definitions formulated from the health standpoint by the WHO and from the standpoint of social equality by the United Nations, make no distinction between mental and physical handicap. They apply to both.

---

[1] See ILO: *Vocational rehabilitation*, ILC, 69th Session, 1983, Report VI(1), Geneva.

[2] OMS-INSERM: *Classification internationale des déficiences, incapacités et handicaps* (Paris, 1981).

[3] United Nations World Programme of Action concerning Disabled Persons, Chapter I, Section C, Definitions, para. 7.

55. Thus, disability is no longer seen as an absolute concept, defined in terms of some impairment. It is inferred from the effects that the environment and cultural, social, physical and economic barriers have on that impairment in the person's daily life. Furthermore, occupational disadvantage is relative, because for many disabled people it is dependent on the extent to which places of employment recognize the needs of persons with disabilities and take account of them. The workplace environment should not cater only for persons who have no disability. It should be adapted to make it accessible to all people with disabilities who are able to work, if necessary with appropriate medical or physical aids.

56. In keeping with the World Programme of Action, the ILO's standard-setting activity aims precisely to eliminate from the world of work the barriers that prevent people with disabilities from developing on a par with other citizens and from securing a place in vocational training and employment systems and structures. With this specific aim in view, Convention No. 159 and Recommendation No. 168 afford the same treatment to all categories of people with disabilities. The existence of an occupational disability within the meaning of the term "disabled person" as defined by the Convention justifies the application of its provisions to the person affected regardless of whether the disability is physical or mental.

2. Terminology

57. The terminology used to refer to persons with disabilities often reflects attitudes towards them.[4]

58. In the English-speaking countries, the choice of a term that is acceptable to the persons concerned is not without its difficulties. "Handicapped worker" is perceived as degrading, and the term "the disabled" is not liked because it gives more emphasis to the disability than to the person affected. Associations representing disabled persons prefer the term "persons/people with disabilities", which is gaining ground in specialized circles, legislation and official documents in many English-speaking countries.[5]

59. In the European countries the term "*handicapé*" in French or its equivalent in other languages[6] is increasingly used in legislation as well as by associations representing disabled persons. In the Middle Eastern countries, it is the equivalent of "handicapped" which is most often used.[7] The terms used in Latin America emphasize the person and append a term designating disability or reduced capacity.[8]

---

[4] B. Doyle: *New directions towards disabled workers' rights* (London and Worthing, Institute of Employment Rights, College Hill Press (TU), 1994).

[5] For example, *Australia, Canada, United Kingdom* and *United States* (in this context expressions such as "physically or mentally challenged persons" are used).

[6] "*Handicappet*" or "*invalid*", the latter referring only to persons with physical disabilities, in *Denmark*; "*vammainen*" in *Finland*; "*behindert*" in *Germany*; "*handicappata*" in *Italy* (Act No. 104 of 5 Feb. 1992); "*Gehandicapt*" in the *Netherlands*; in *Norway*, however, the term "*handicappet*" is less frequently used than "*funksjonshemmer*" (functionally impaired), the term preferred by organizations representing disabled persons; in *Portugal* "*com capacidade de trabalho reduzida*" (with reduced working capacity) or "*diminuido*", to which disabled persons and their organizations prefer "*deficiente*"; in *Spain*, "*minusválido*" (literally less strong) or "*disminuido*", which implies reduced capacity or abilities; "*handikappt*" in *Sweden*.

Section I. Definition of the term "disabled person"

60. According to Article 1(1) of Convention No. 159, "the term 'disabled person' means an individual whose prospects of securing, retaining and advancing in suitable employment are substantially reduced as a result of a duly recognized physical or mental impairment". This definition should be examined in the light of its complementarity with that of the term "disabled person" given in the Vocational Rehabilitation (Disabled) Recommendation, 1955 (No. 99).

61. As the Committee has already emphasized, in both Recommendation No. 99 and the new instruments, from the standpoint of vocational rehabilitation and employment, disability arises not just from the existence of a medical disability or a physical or mental impairment, but also from the limiting effects of the impairment on the person concerned.

I. Criteria for identifying occupational and social disability

62. There is no universal and absolute definition of physical disability and mental disability. Indeed, it would be pointless even to attempt a precise definition of these two concepts. Quite apart from the scientific and philosophical difficulties of defining the content, any attempt at accurate translation would come up against the inevitable linguistic and cultural stumbling-blocks. The juxtaposition of the adjectives "physical" and "mental" in all the relevant provisions of Convention No. 159 and Recommendation No. 168 reflects the intent to place all disabled persons on an equal footing regardless of the nature of their disability. That intent was already plain in the wording of Paragraph 1(b) of Recommendation No. 99. It results from the fact that, in the past, the rehabilitation services set up in various countries covered only persons with physical disabilities and for the most part addressed the needs of war invalids and victims of employment injuries.

63. With the adoption of Recommendation No. 99 and the application of its provisions by member States, these services have been extended and diversified, and new services have been set up for all categories of persons with physical and mental disabilities, regardless of the nature of their disabilities. The Declaration of the Rights of Mentally Retarded Persons adopted by the United Nations General Assembly in December 1971 contributed to a shift in national

[7] *Lebanon, Qatar, Saudi Arabia, Syrian Arab Republic.*

[8] For example, *Argentina* ("*persona discapacitada*"), *Chile* ("*persona con discapacidad*"), *Peru* ("*persona inválida*"), *Uruguay* ("*persona discapacitada*").

policies in favour of persons with mental disabilities by encouraging a number of countries to make specific provision for their training, placement and employment, including the creation of employment opportunities in the public sector. Some countries have even adopted provisions on the vocational rehabilitation of categories of disabled persons whose disability is, strictly speaking, neither physical nor mental, but is treated as such.[9]

64. It should be noted, however, that while the identification of physical disability raises no particular problems, there is still much debate about the identification of mental disability. In the initial draft of Recommendation No. 168, the definition proposed for the term "disabled person" included a reference to "psychological impairment" in addition to physical and mental impairment.[10] The discussions concerning the distinction between mental and psychological impairments during the preparatory work on the Convention and Recommendation brought to light the difficulty of reaching a consensus on the meaning of these two concepts for the purposes of the application of ILO instruments. Wide-ranging proposals were put forward by participants, reflecting different views as to the advisability of providing vocational rehabilitation services to persons who, for reasons that are difficult to define precisely, have difficulty in adjusting or becoming integrated in society. Concepts such as "social maladjustment" and "psycho-socially impaired" were suggested as criteria for identifying occupational disability.

65. National laws and regulations use a variety of terms to indicate the physical or mental nature of the disability. In some countries a physical impairment may be "sensory"[11] when it affects the sensory organs, "anatomical" or "functional" or "motor", where it prevents or restricts the person's mobility.

66. Different terms are used to refer to mental impairment, such as "learning difficulties", "psychiatric handicap"[12] or "psychological handicap".[13]

---

[9] For example, in 1977 the *United States* stipulated that the regulations forbidding discrimination covered all types of physical and mental impairments, including drug addiction and alcoholism (ILO: *Vocational rehabilitation*, Report VI(1), ILC, 68th Session, 1982, Ch. II (Definitions and scope) (preparatory work for the Convention and Recommendation)).

[10] ILO: *Vocational rehabilitation*, ILC, 69th Session, 1983, Report IV(2), Geneva.

[11] *Australia* (ss. 8(1) and 18 of the Disability Services Act, No. 129 of 1986); *China* (s. 2 of the Law of 28 Dec. 1990 on the protection of disabled persons); *Egypt* (s. 2 of Act No. 39 of 1975); *Italy* (Act No. 104 of 5 Feb. 1992 respecting assistance to disabled persons and their protection); *Libyan Arab Jamahiriya* (Act No. 3 of 1981); *Luxembourg* (Act of 12 Nov. 1991 respecting disabled workers); *Malawi* (Handicapped Persons Act, No. 48 of 1971); *Mauritius* (Training and Employment of Disabled Persons Act of 23 May 1996); *Romania* (Act No. 53 of 1992 respecting special protection for disabled persons); *Tunisia* (Act of 1981 respecting assistance and protection of disabled persons).

[12] For example, *Australia*.

[13] For example, *Greece*.

67. Some countries whose legislation contains no definition of disability for the purposes of vocational rehabilitation nonetheless pursue a very voluntarist policy and are making considerable efforts in this area.[14]

68. In *France*, a working party was set up in 1988 to develop a new method for assessing disability, based on the international community's new approach to the concept which emerged as a result of the WHO's international classification. Indeed, one of the reasons for adopting a new classification was to facilitate a more accurate assessment of clinical impairments which have social and occupational repercussions, and the adoption of the most appropriate measures for the vocational rehabilitation and employment of the persons affected.

69. The tendency now emerging is to adopt definitions that focus on the "physical and mental" nature of the impairment affecting the people covered by provisions on vocational rehabilitation and employment of disabled persons.[15] Where only one type of impairment is taken into account, it is physical impairment in all cases.[16]

II. Method of determining disability status

70. Proper implementation of the provisions of the relevant instruments requires prior determination of criteria for identifying the persons covered and the designation of the authority responsible for ascertaining the existence of disability.

71. Recommendation No. 99 lays down no rules as to the method of identifying disabled persons. During the preparatory work on Convention No. 159 and Recommendation No. 168, some participants were of the view that the new instruments too should remain silent on the matter. Others suggested that the instruments should specify the nature of the competent authority. The Office, for its part, considered that recognition of the existence of a disability should be left to the specialists in each country, and that what mattered was that there should be a provision enabling each country to determine as "fairly" as possible how an occupational handicap is to be diagnosed. The principle is set in paragraph 4 of Article 1 of the Convention, which states that its provisions shall apply to all categories of disabled persons, provided that their impairment is "duly recognized" (paragraph 1). Paragraph 3 allows flexibility in applying the principle and leaves Members considerable leeway in this respect, by stating that "the provisions of this Convention shall be applied by each Member through measures which are appropriate to national conditions and consistent with national practice".

---

[14] For example, *Denmark* and *Sweden*.

[15] *Argentina* (s. 2 of Act No. 22/431 of 1981 respecting the full protection of disabled persons); *Costa Rica* (s. 1 of Act No. 7219 of 19 May 1988 on income tax and advantages for employers hiring disabled persons); *Croatia* (s. 2 of the Labour Code and s. 9 of the Employment Act of 28 June 1996); *Ethiopia* (Order No. 70/1971); *France* (s. L.323-10 of the Labour Code); *Malta* (Disabled Persons (Employment) Act of 7 Feb. 1969); *New Zealand* (Disabled Persons Employment Promotion Act, No. 42 of 1960, as amended in 1980, and Act of 1975, as amended by the Disabled Persons Community Welfare Act of 1 Mar. 1990); *Portugal* (Legislative Decree No. 247/89 of 5 Aug. 1989); *Spain* (Royal Decree No. 1445/1982); *Uruguay* (s. 2 of Act No. 16095 respecting the system for the full protection of disabled persons).

[16] For example: *Dominican Republic*, s. 314 of the Labour Code: "... any person presenting anatomical, congenital or acquired abnormalities entailing a reduction of his or her normal working capacity". This definition has been brought into conformity with the purpose of the Convention by Decree No. 107.95 of 12 May 1995.

72. The Committee's examination of the relevant national laws and regulations reveals that the term "duly recognized" referring to an impairment is generally understood as the need to determine, at the national level, a means of establishing disabled status on the basis of the extent to which the impairment reduces an individual's employment prospects. Responsibility for the diagnosis rests with authorities that represent several complementary ministerial departments, such as those of health, labour, social security, etc., which guarantees its reliability. Many countries,[17] including some that have not ratified the Convention, have opted for this method of establishing disability status for the purposes of vocational rehabilitation and employment.

Section II. Persons covered by the instruments

Application to all disabled persons

73. In terms of the persons they cover Convention No. 159 and Recommendation No. 168 reflect the resolve of member States to supplement Recommendation No. 99 with a view to creating the necessary conditions for achieving the integration or reintegration of disabled persons in working life and ensuring that the ILO plays the role incumbent on it in the process of building a society for all in which all people with disabilities, without distinction, have their place on an equal footing with the rest of the community and are able to participate fully in social and economic life.

74. In terms of vocational rehabilitation the concept of "disabled person" varies from one country to another and it is sometimes difficult to determine the exact scope of the relevant legislation.

75. Only rarely does legislation reproduce exactly the definition given in Article 1(1) of the Convention and Paragraph 1 of the Recommendation.[18]

---

[17] *Belgium:* Fonds National de Reclassement Social des Handicapés (FNRSH); *Bulgaria:* Ordinance No. 36 respecting certification of permanent disability; *France:* Commission d'Orientation et de Reclassement Professionnel (COTOREP); *Germany:* Versorgungsämter; *Netherlands:* Gemeenschappelijke Medische Dienst (GMD); *Romania:* Act No. 53 of 1992 respecting the special protection of disabled persons (s. 1(2)).

[18] *Colombia* (Act No. 82 of 23 Dec. 1989: the term "prospects" is replaced by "opportunities"); in *Madagascar* s. 102 of the Labour Code reproduces word for word the definition in the Convention.

Definitions are either restrictive[19] or extensive.[20] In many cases they were established before the adoption of Convention No. 159 and Recommendation No. 168, on the basis of Recommendation No. 99, which was adopted in 1955. In some countries there is no definition of the concept of "disabled person".[21] In others, the term "disabled worker" is used instead of "disabled person" in determining the categories of persons covered by the provisions on vocational rehabilitation, placement and employment of disabled persons.[22]

76. The concept of "disabled person" has evolved. The existence or absence of a definition in the legislation is not necessarily a reflection of the degree of interest or priority that a country assigns to vocational rehabilitation, employment or social reintegration of persons belonging to this category of the population.

77. According to Convention No. 159, the criteria for identification of disabled persons are the existence of a physical or mental impairment on the one hand, and, on the other, the substantial reduction of the individual's occupational prospects as a result of the impairment. In terms of persons covered, the scope of national provisions on vocational rehabilitation and employment of disabled persons can be gauged by the content that each country assigns to these two criteria, or by the absence of criteria, which may reflect a very broad interpretation of the concept of disability.[23]

78. In addition to legislation applying without distinction to all categories of disabled persons, some countries also have special legislation for particular categories of persons, based on the origin of the disability[24] or its nature[25] or on occupation.[26] In other countries the persons covered by provisions on vocational rehabilitation and employment for disabled persons are determined on the basis of a specified degree of disability expressed as a percentage.[27] Lastly, one country has adopted provisions promoting equality of opportunity and treatment between national and foreign disabled workers on the basis of reciprocity.[28]

---

[19] *Dominican Republic:* According to s. 314 of the Labour Code, a disabled person is defined as "any person presenting anatomical, congenital or acquired abnormalities entailing a reduction of his or her normal working capacity"; this definition supplemented by s. 1 of Decree No. 107.95 of 12 May 1995 defines a disabled person as one who presents a physical, mental or sensory impairment.

[20] *Chile* (s. 3 of Act No. 19.284 of Jan. 1994); *China:* According to s. 2, §2, of the Act of 28 Dec. 1990, "the term 'disabled persons' refers to persons presenting a visual, hearing, speech or physical impairment; suffering from mental retardation, multiple impairments and/or other impairments"; according to §3, the criteria for classification of impairments shall be laid down by the Council of State; *Panama* (s. 1 of Act No. 7 of 28 Jan. 1992): permanent or temporary, total or partial, physical or sensory, emotional or mental functional impairment ...); *Spain:* s. 7 of Act No. 13/82 of 7 Apr. 1982 respecting the social integration of disabled persons: an impairment, congenital or otherwise, that has been diagnosed as permanent, of physical, mental or sensory capacities.

[21] For example, *Bangladesh, Chad, Denmark, Estonia, Ireland, Malaysia, Papua New Guinea, Senegal, Suriname* and *Turkey*.

[22] For example, s. L.323-10, §1, of the Labour Code of *France* defines a disabled worker as any person whose prospects of securing and retaining employment are substantially reduced as a result of impairment or reduction of his or her physical or mental capacity.

[23] For example, *Denmark* and *Sweden*.

Section III. Definition of vocational rehabilitation

79. The instruments under consideration do not define "vocational rehabilitation" in absolute terms. Like Recommendation No. 99 of 1955, Convention No. 159 and Recommendation No. 168 establish the objective of vocational rehabilitation rather than defining the term. According to the Recommendation of 1955, the objective of vocational rehabilitation is to enable a disabled person to secure and retain suitable employment. The new instruments denote a considerable step forward, assigning a new and a more ambitious objective to vocational rehabilitation, namely to "advance in suitable employment and thereby to further such person's integration or reintegration into society". According to Recommendation No. 99, the services that make up vocational rehabilitation are specialized vocational guidance (Paragraph 3), vocational training (Paragraph 5) and placement (Paragraph 10); Article 7 of Convention No. 159 adds employment and "other related services", thus supplementing the list without restricting it.

---

[24] *Belgium:* the Act of 8 Aug. 1981 establishing the National Institute of War Invalids, Veterans and War Victims, awards material and moral support to persons so defined in all circumstances. Following a medical/psychological/technical vocational guidance test by an ordinary or specialized vocational guidance office, or by the Institute's own Medical/Psycho-social Resettlement Centre, the Institute takes special measures to facilitate their vocational rehabilitation where they are no longer able to engage in their former occupation or where the remuneration for such occupation no longer enables them to support their families, as well as their placement. *El Salvador:* Decree No. 791/91 providing for greater state participation in the support and protection of persons wounded in the armed forces who, as a result of injuries sustained in active service or as a consequence thereof, are disabled and covered by rehabilitation programmes of the Social Welfare Institute of the Armed Forces; the Decree also provides for the possibility of granting a plot of land for ten years, which may be transferred or farmed tax free. *Spain:* the Order of 14 Nov. 1988 establishing the National Plan concerning Toxic Syndrome provides for new criteria for the grant of a subsidy enabling persons intoxicated by adulterated oil to become self-employed or set up cooperatives.

[25] *El Salvador:* Decree No. 247 of 26 Oct. 1984 introduces a compulsory hiring quota only for persons with physical disabilities only; *Peru:* Ministerial Resolution No. 474-88-TR of 30 Nov. 1988 provides that "persons with a visual impairment" and/or with another physical disability shall be employed as operators in telephone exchanges.

[26] *Argentina:* Decree No. 1027/94 of 29 June 1994 provides that young disabled lawyers shall receive occupational training provided by the National Advisory Commission for the Integration of Disabled Persons.

[27] In *Germany*, the Act of 26 Aug. 1986, as amended on 23 July 1996, respecting severely disabled persons, provides for occupational integration of those with a disability assessed at between 30 and 50 per cent; in *Turkey* under the Regulations respecting the employment of disabled persons adopted under Labour Act No. 1475, which entered into force on 16 Mar. 1987, a disabled person is defined as a person who has lost at least 40 per cent of his or her working capacity but who is employable.

[28] *Spain:* Act No. 13 of 7 Apr. 1982.

80. Over and above its content, which depends on the social and economic situation of each country, vocational rehabilitation within the meaning of Article 1, paragraph 2, of the Convention, is defined as a stage in the continuous and coordinated process of social rehabilitation whose aim is to prevent or minimize the functional, physical, psychological, socio-cultural or economic consequences of disabilities of different types and origins. This is in line with the WHO's definition of "rehabilitation", as applied to disability, namely "the combined and coordinated use of medical, social, educational and vocational measures for training or retraining the individual to the highest possible level of functional ability". The Committee notes in this connection that a study published in 1989 by the International Social Security Association (ISSA) emphasized the social aspect of rehabilitation throughout the various stages of the process.[29]

81. This step forward in the concept of vocational rehabilitation is the result of a shift in social concepts generally, particularly that of the equality of all before the law which, for people with disabilities, implies equal status with the non-disabled population. By reaffirming the principle of equality of opportunity for people with disabilities as the basis for the national policy on vocational rehabilitation, and by emphasizing that special positive measures aimed at effective equality of opportunity and treatment between disabled workers and other workers are compatible with the principle of non-discrimination enshrined in ILO standards,[30] Convention No. 159 and Recommendation No. 168 considerably extend the substantive scope of vocational rehabilitation. The latter should, in principle, cover all services and measures that contribute to securing equality of opportunity in working life for people with disabilities and lead to their integration or reintegration in society. In addition to the vocational guidance, vocational training, placement and employment services prescribed by the Convention, the new instruments suggest the provision of other related services such as preparation for training, modular training, training in literacy and for day-to-day activities and other training directly or indirectly related to vocational rehabilitation and geared to the social integration or reintegration of people with disabilities.

---

[29] International Social Security Association (ISSA): *The social and vocational rehabilitation of the disabled, in the light of the employment situation*, Report XII, XXIIIrd General Assembly, Vienna, 5-13 Sep. 1989 (Geneva), p. 6. The study was based on replies to a questionnaire sent to member organizations in 13 countries *(Argentina, Austria, Canada, Costa Rica, Finland, France, Germany, Israel, Malaysia, Mexico, Poland, Senegal, Switzerland)*.

[30] The Discrimination (Employment and Occupation) Convention (No. 111), and Recommendation (No. 111), 1958.

82. Each of the areas covered by the national policy on vocational rehabilitation will be examined in detail in Chapter 2 concerning the basis and scope of the State's obligations.

Section IV. Subject-matter covered by the instruments

83. The subject-matter of Convention No. 159 consists of the areas covered by the national policy as defined in Article 3:

(1) vocational rehabilitation services, a non-exhaustive list of which is given in Article 7; and

(2) employment.

84. The State's obligations are to provide rehabilitation services and to promote employment opportunities for disabled persons in the open labour market.

85. The diversity and scope of measures to be taken depend on each country's level of social and economic development, as well as the ability of the public authorities to pursue all the avenues of action. The implementation and success of the measures depend not just on financial resources, but a genuine willingness to recognize that disabled persons, like the non-disabled members of the community, are a source of prosperity.

86. The availability of a country's resources for securing the social well-being of its population is inherently linked to the extent to which social concepts have evolved and the way in which they are reflected in the life of society. In a number of countries which have attained a high level of economic and social development, the status of people with disabilities has naturally improved thanks to the investment of adequate human, material and financial resources. The measures adopted by these countries are aimed at rehabilitation in the broad sense, which includes medical, occupational and social rehabilitation. They involve a number of sectors including education, physical environment, town planning, ergonomics, communication technologies, social, cultural and sports activities, transportation, etc.[31]

87. The results of vocational rehabilitation and employment measures serve to highlight the productive potential of people with disabilities, to turn that potential to good economic effect (for example by reducing the cost of social security benefits that go to meet the subsistence needs of disabled persons) and to create conditions conducive to the attainment of the objective of full participation and equality set by the United Nations World Programme of Action concerning Disabled Persons.

88. In most countries the public authorities are responsible, to a greater or lesser degree, for vocational rehabilitation and hence for providing vocational guidance, vocational training, placement and employment services and undertaking measures to create employment opportunities for people with disabilities in the public and private sectors, including self-employment. Often, such measures were implemented before the adoption of Convention No. 159 and Recommendation No. 168 and were largely based on the guidelines provided in Recommendation No. 99. In many countries, however, the change in the role and place of disabled persons in active life, reflected in the adoption of Convention No. 159 and Recommendation No. 168 in 1983, has led to the implementation of measures to integrate them into the mainstream of society.[32] In a previous General Survey on equality in employment and occupation[33] the Committee indicated that, as a general rule, it is the purpose of vocational guidance to offer to young persons, or to persons who may need it, special assistance in choosing an occupation. Various methods are used to this end, such as the dissemination of information about occupations, the preparation of recommendations in the light of personal aptitudes and social needs, the joint participation of teachers and parents in fostering the children's choice of an occupation. The Committee stressed the importance of vocational guidance in opening a broad range of occupations free of considerations based on stereotypes or outdated conceptions according to which specific trades or occupations are supposedly reserved for specified categories of persons.

---

[31] *Australia, Belgium, Canada, Denmark, France, Germany, Sweden, United States.*

89. The Committee has observed that where the legislation does define "vocational rehabilitation", the objectives set vary in their ambition: some countries define vocational rehabilitation in the narrowest sense, as measures to enable a disabled person to engage in an occupational activity.[34] Other countries include vocational rehabilitation measures in the overall process of social rehabilitation.[35]

---

[32] For example, *in the field of vocational guidance:* in *Belgium*, educational and vocational guidance for people with disabilities is provided by "ordinary" centres, unless specialized guidance has to be provided for certain types of disability and requires specialized staff and special methods (for example, guidance tests for persons without a visual impairment cannot be used for the visually impaired). In *Finland*, for the most part vocational guidance for people with disabilities is dispensed in employment offices as part of the normal services, and in special establishments if the disability is severe. In *France*, people with disabilities enjoy access to the institutions provided for the rest of the population, provided that their abilities and family environment so permit. In *Germany*, under s. 32 of the Employment Promotion Act of 25 June 1969, as amended on 21 Dec. 1992, the Federal Labour Institution shall cooperate with ordinary educational establishments (unless a young person's disability is such that he or she must attend a specialized educational establishment) with a view to providing vocational guidance to people with disabilities. Under ss. 4 and 25 of the Act, vocational guidance is dispensed to young persons with disabilities by free guidance services that are set up in all the placement offices whose competence extends to providing vocational training; pursuant to the Severely Disabled Persons Act of 26 Aug. 1986, as amended on 6 Aug. 1991, all the employment offices have set up specialized services with qualified staff responsible for promoting the vocational training and job integration of people with disabilities. *Vocational training:* in *Cyprus*, people with disabilities are encouraged to attend ordinary vocational training courses if they are able to do so. In *Italy*, under s. 3 of the Framework Act on vocational training, the regions, using existing structures (except where specialized structures are set up to provide training to persons with physical or sensory impairments that prevent them from attending normal courses), shall carry out all appropriate measures (psycho-pedagogical, technical and medical support for pupils with behavioural disorders or physical or sensory impairments) to ensure that young persons with disabilities are fully and entirely integrated in normal training processes, and to further their social integration.

[33] ILC, 75th Session, 1988, ILO, Geneva, para. 85.

Section V. The role of non-governmental organizations

90. The Committee notes that one of the most important developments since the proclamation in 1982 of the first United Nations Decade of Disabled Persons has been the proliferation of organizations of and for disabled persons around the world. These organizations have developed at the local, national, regional and international levels, for advocacy of the cause of people with disabilities as well as for promotion of solidarity and self-help. This development has allowed people with disabilities and their organizations to have a greater say in the design and implementation of the policies and programmes that affect them directly.

91. The objective of all these non-governmental organizations, especially those working at the international level, is to ensure that people with disabilities enjoy fundamental human rights. Their aim is to ensure that these workers enjoy equality of opportunity and treatment in access to vocational rehabilitation and to productive and freely chosen employment. In some countries organizations of people with disabilities, or those which work for their interests, have even become providers of vocational rehabilitation and employment services.

92. The Committee notes that Convention No. 159 emphasizes the importance of the role of representative organizations of and for disabled persons for the implementation of a national policy of vocational rehabilitation and employment of the disabled. Article 5 provides that these organizations, as well as the representative organizations of employers and workers, should be consulted in the implementation of the Convention.

---

[34] For example: *Azerbaijan:* s. 12 of the Act of 25 Aug. 1992 respecting the social protection of disabled persons; *Bahrain:* s. 18 of the Labour Code for the private sector of 1976; *Czech Republic:* s. 23 of the Employment Act of 1990 and of Act No. 1 of 1991 respecting employment; *Hungary:* s. 1(1) of the Joint Decree on employment and social security of workers with altered working capacity, No. 81 of 1983; *Saudi Arabia:* s. 52 of the Labour Code of 15 Nov. 1969; *Switzerland:* s. 8 of the Disability Insurance Act of 1959, as amended, defines the objective of rehabilitation as that of restoring, enhancing or preserving earning capacity or improving the way in which it is used.

[35] For example: *Australia:* Annex 2, s. 2, of the Disability Services Act of 1993; *Canada:* Ch. R.11(k) of the Act of 1978, as amended, of Newfoundland respecting vocational rehabilitation of disabled persons; *China:* s. 13 of Ch. II of the Disabled Persons Protection Act of 1990; *Egypt:* s. 2(2) of Act No. 49 of 1982 respecting the rehabilitation of disabled persons; *Iceland:* s. 8 of the Disabled Persons Act of 1992; *Japan:* the New Long-Term Programme for Government Measures for Disabled Persons of 22 Mar. 1993; *Kyrgyzstan:* s. 17 of the Act of 1991 respecting the social protection of disabled persons.

CHAPTER 2

Basis and scope of state obligations

Section I. Obligations of the State: Vocational rehabilitation and employment

93. Under Article 2 of Convention No. 159, "each Member shall, in accordance with national conditions, practice and possibilities, formulate, implement and periodically review a national policy on vocational rehabilitation and employment of disabled persons". Under Article 4, the national policy shall be based on the principle of equal opportunity between disabled workers and workers generally, and the principle of equality of opportunity and treatment for disabled men and women workers shall be respected.

94. Before examining the scope of the obligation to formulate and periodically review a national policy, it is necessary to analyse the principles on which the policy should be based.

I. Basic principles of the national policy

95. Article 4 of the Convention, like other international labour standards, reflects the ILO's constant attachment to equality as a fundamental prerequisite for human dignity and social justice.[1] This provision recalls the content of Convention No. 111[2] which sets out in Article 1, paragraph 1(a), the grounds of discrimination that are unjustified from the standpoint of the values defended by the Organization and which have the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation. In addition to the criteria explicitly mentioned, subparagraph (b) of the same Article provides that such other distinction, exclusion or preference which has the same effect may be determined after consultation with representative employers' and workers' organizations and other appropriate bodies.

---

[1] Migration for Employment Convention (Revised), 1949 (No. 97); Indigenous and Tribal Populations Convention, 1957 (No. 107); Paid Educational Leave Convention, 1974 (No. 140); Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143); Migrant Workers Recommendation, 1975 (No. 151); Workers with Family Responsibilities Convention, 1981 (No. 156); Asbestos Convention, 1986 (No. 162); and Indigenous and Tribal Peoples Convention, 1989 (No. 169).

[2] Discrimination (Employment and Occupation) Convention, 1958 (No. 111).

96. Convention No. 159 extends to disabled persons the protection afforded by Convention No. 111 to the categories of persons covered by it; in view of the twofold discrimination affecting women with disabilities, it reaffirms and places special emphasis on the need to respect the principle of equality of opportunity and treatment for disabled men and women workers in occupation and employment. In this respect, the Committee suggests that the principles laid down in Convention No. 111 be extended to people with disabilities by the States which have ratified it.

1. Equality of opportunity between disabled workers and workers generally

97. If the need was felt to reformulate the principle of equality of opportunity for the category of the population comprised of people with disabilities, it is because the principle cannot be effectively applied to them without first adjusting the objective and subjective conditions of their situation as compared to that of other workers and to the particular situation of different groups of disabled persons. Equalization of opportunities for people with disabilities implies that the obstacles to their social and occupational integration are registered and appropriate measures taken to eliminate them progressively. These obstacles are inherent in an environment and educational and training systems that are clearly not adapted to the needs of people with disabilities, in particular with respect to the requirements of the world of work.

98. The work carried out under the World Programme of Action concerning Disabled Persons revealed the following facts.

99. Over 500 million persons worldwide are disabled as a result of a physical or mental impairment, and at least 25 per cent of any population comes up against the problem of disabled persons.[3]

100. Some 350 million people with disabilities live in areas where the services needed to assist them in overcoming their limitations are not available. And even where rehabilitation services are available, disabled persons are, to a large extent, exposed to physical, cultural and social barriers which affect their lives.

101. Approximately 80 per cent of all persons with disabilities in developing countries live in rural areas and remote communities. In some of these countries, the proportion of the population suffering from a disability is as high as 20 per cent, and if families and relatives are included, the lives of 50 per cent of the population are affected by disability.[4] The problem is exacerbated by the fact that in most cases, people with disabilities also live in extreme poverty. The absence of medical infrastructures in these areas means that the disability is detected too late, and so is often irreversible. Thus, the number of disabled persons in developing countries continues to grow, and what is more, their isolation and exclusion are compounded by the population explosion.

---

[3] In a communication on equal opportunities for people with disabilities, the European Commission estimates that one out of ten persons in Europe has a disability (*European Social Policy Supplement*, Aug.-Sep. 1996, No. 66) (these figures refer to the total population, not the economically active population).

[4] These figures apply to the entire population of people with disabilities, not only those in the "normally" economically active population.

102. For many people with disabilities, either there is no possibility of finding a job or such work as they are able to obtain is usually menial and poorly paid. But the evidence shows that with appropriate training and placement, they are able to work in a wide range of occupations under normal working conditions.

103. Generally speaking, disabled persons are excluded from society and prevented from participating in it for such simple reasons as lack of access to buildings or transportation, or the inability to communicate orally (in the case of people with hearing and speech impairments) or in writing (in the case of those with visual impairments).

104. The right of people with disabilities to equal opportunities can be secured in the first place through political and social action. Many countries have successfully endeavoured to eliminate or reduce the barriers to their full participation in community life. Through the adoption of relevant legislation, people with disabilities have been given the right and the opportunity to attend school, obtain employment and avail themselves of community services, physical and cultural barriers have been lifted and discrimination against them has been prohibited. In a previous General Survey on the instruments on the development of human resources, the Committee noted the application in several countries of the provisions of Convention No. 142 and Recommendation No. 150 concerning persons with mental and physical disabilities.[5] In their reports, some governments had referred to measures designed to integrate disabled persons in training and employment and measures taken for the purpose of allowing such persons to benefit from the same programmes as those intended for the whole of the population, as well as special measures to facilitate their access to the workplace and to compensate for lower output.[6] Most countries had supplied information on special measures, including the establishment of vocational guidance and training centres as well as special services.[7] There has been a shift from public institutions to community life. In some developed as well as developing countries, emphasis is increasingly laid on the advantages of their attending ordinary school and vocational training courses with the result that specialized structures are decreasing in number. There is a growing awareness of the need to adopt such measures. It is reflected in particular in public awareness and information campaigns aimed at altering the way people with disabilities are perceived by the community in general and by employers in particular, and hence individual and collective attitudes towards them. In many cases it is disabled people themselves who have decided to take over the equalization process to ensure that their abilities and real needs are taken into account and endeavoured to become integrated in working life and society. Although their efforts have yielded encouraging results, the fact unfortunately remains that very many countries are still far from meeting the minimum conditions for equalization of opportunities.

---

[5] ILC, 78th Session, Geneva, ILO, 1991.

[6] For example: *Australia, Belize, Finland, Hungary, Italy* and *Portugal*. In *Brazil*, Act No. 7853 of 24 October 1989 lists and describes the coordinated support measures for social integration. These measures are provided in the national education system. They involve compulsory education for disabled persons, in public and private educational institutions for those who are able to be integrated into the normal education system, but also special education programmes at school and pre-school levels in hospitals and similar establishments; and in vocational training and employment, working time arrangements, including part-time work, the promotion of effective action to promote the employment of disabled persons in the public and private sectors, as well as organization of the labour market.

[7] *Belgium, Brazil, Cyprus, Finland, Guyana, Hungary, Ireland, Japan, Jordan, Kenya, Malaysia, Poland, Saudi Arabia, United Republic of Tanzania, Tunisia* and *United Kingdom*.

105. The principle of equality of opportunity and treatment, which the ILO has constantly defended for everyone, is also the cornerstone of the United Nations World Programme of Action concerning Disabled Persons. The Programme calls upon States to formulate their national policies for its implementation from the viewpoint of disabled persons and to set up services to ensure that disabled persons in both urban and rural areas have equal opportunities for productive and gainful employment in the open labour market, emphasizing, as do the relevant ILO instruments, that special attention should be given to rural employment and the development of appropriate tools and equipment.

106. Drawing extensively on the Vocational Rehabilitation (Disabled) Recommendation, 1955 (No. 99), the United Nations Programme invites member States to promote the integration of disabled persons in the open labour market by means of a wide range of measures[8] such as quota schemes, reserved or designated employment, loans or grants for small enterprises and cooperatives, exclusive contracts or priority production rights, tax concessions,[9] etc., as appropriate to national conditions. Article 3 of Convention No. 159, which refers in its Preamble both to Recommendation No. 99 and to the World Programme of Action, provides that States shall undertake, on the one hand, to ensure that vocational rehabilitation measures are made available to all categories of disabled persons and, on the other, to promote employment opportunities for them in the open labour market. Recommendation No. 168 lists and describes the measures that may be taken to give effect to the relevant provisions of the Convention, most of which are "special positive measures" as provided in Article 4 of the Convention, which are aimed primarily at enabling disabled persons to benefit from vocational rehabilitation services in the broad sense, namely, in their working life as well.

107. Full participation of people with disabilities requires the implementation of a global strategy and the involvement of organizations of or for disabled persons in decision-making. The World Programme of Action recommends that governments provide financial support to these organizations to this end.[10]

---

[8] Paras. 31, 32 and 34 of the Recommendation.

[9] Point 129 of the United Nations World Programme of Action concerning Disabled Persons.

108. In its General Survey on equality in employment and occupation the Committee observed that the protection provided for in Convention No. 111 is not limited to the treatment accorded to a person who has already gained access to employment or to an occupation, but is expressly extended to opportunities for access to employment or occupation, and that first and foremost it applies to "access to training, for without such access any real possibility of entering an employment or occupation would be nugatory, inasmuch as training is the key to the promotion of equality of opportunities". The Committee also referred to Paragraph 2(b) of Recommendation No. 111, pursuant to which all persons should, without discrimination, enjoy equality of opportunity and treatment in respect of:

(i) access to vocational guidance and placement services;
(ii) access to training and employment of their own choice on the basis of individual suitability for such training or employment;
(iii) advancement in accordance with their individual character, experience, ability and diligence;
(iv) security of tenure of employment;
(v) equal remuneration for work of equal value;
(vi) conditions of work.[11]

109. Equality of opportunity and treatment, the principle of which is laid down in Convention No. 159 for disabled persons, must be guaranteed. For this purpose, particular attention should be paid to disabled persons. The Employment Policy Convention, 1964 (No. 122), provides that the policy designed to promote full, productive and freely chosen employment must aim at ensuring that there is the fullest possible opportunity for each worker to acquire the necessary skills for a job for which he or she is suited. This opportunity should be enjoyed by people with disabilities as well as other members of the community. Article 7 of Convention No. 159 provides, in addition, that, wherever possible and appropriate, and with the necessary adaptations, vocational guidance, vocational training, placement, employment and other existing services for workers generally shall be used for disabled persons. The Committee observes that this provision is being increasingly applied in countries where vocational rehabilitation infrastructures have already been developed.[12]

---

[10] Point 93 of the United Nations World Programme of Action concerning Disabled Persons.

[11] ILC, 75th Session, Geneva, ILO, 1988, para. 76.

[12] *Colombia:* the Government states that since 1989, as part of the standardization of vocational guidance, vocational training and placement services, the decision has been taken to use existing vocational training infrastructures for people with disabilities as well, and to train specialized staff to meet their needs, in the case of employment services.

110. In regard to access to wage employment, the Committee pointed out in its 1996 Special Survey on equality in employment and occupation,[13] that the application of the principle of equality of opportunity and treatment guarantees that every person has the right to have his or her application for a chosen job considered equitably, without discrimination based on any of the grounds referred to in Convention No. 111. The Committee stated, however, that the application of this principle does not give every person the right to the job of his or her choice, irrespective of his or her professional qualifications or other conditions. On the other hand, the Committee stressed the considerable importance of the recruitment procedure and the statement of reasons in the event of an adverse decision for the effective application of this right. The Committee considered that a candidate who has been eliminated should be allowed access to written information relating to the training, practical experience and other easily identifiable qualifications possessed by the person who has been appointed to the post, especially if the post has been advertised publicly. It emphasized the fundamental nature of the objective recruitment criteria in the choice of a candidate by the employer and advocated that requirements as to physical strength, for example, should not be considered as such criteria except in so far as they are requirements necessary to the performance of a particular activity. These considerations apply exactly in the same terms to the conditions which should prevail in the recruitment of disabled persons and it is incumbent on the competent authorities of countries which have ratified Convention No. 159 to ensure, in the employment policy in general and in the vocational rehabilitation and employment policy for disabled persons in particular, that reflexes tending to marginalize disabled people in regard to working life disappear progressively. Furthermore, the Committee emphasized in the above-mentioned Special Survey the value of the existence of an efficient public employment service as an essential element of a policy to promote equality of opportunity and treatment in occupation, as such a service, in its practical daily activities and its relations with users, should ensure respect for the principle of equality of opportunity and treatment, not only by abstaining from practising discrimination, but also by a commitment to guaranteeing effective equality in employment. The observance of the national policy to promote equality of opportunity and treatment in employment, within the meaning of Article 4 of Convention No. 159, must therefore also be applied in the activities of placement services under the direction of a national authority.

111. In addition, while examination of governments' reports shows that the employment of disabled persons is clearly on the increase, it should nevertheless be noted that information concerning measures for ensuring security of employment for disabled persons are inadequate to allow the extent and effectiveness to be judged. In its recent General Survey on protection against unjustified dismissal,[14] the Committee observed that in an increasing number of countries, persons with disabilities are protected against discrimination and often benefit from certain guarantees against termination of employment.[15] In several countries, the dismissal of a disabled person is subject to approval by a competent authority.[16] The Committee noted, however, that in some countries, physical or mental incapacity is a legal ground for termination of the employment relationship.[17] The Committee considers that it would be advisable for the victims of occupational injuries and diseases to enjoy additional protection as is the case in the national legislation of a number of countries. Such protection sometimes amounts to the possibility of extending the period of suspension of the employment contract and, in some cases, the legislation provides that the contract shall be suspended for the whole period of incapacity following the occupational injury. The Committee notes with interest that in certain countries the victim of an occupational injury or disease benefits from increased protection.[18] In many countries, when a worker is unfit to return to his former job after a period of suspension of the employment contract, the employer is obliged to place him or her in another job.[19] The Committee is bound to repeat the view it expressed in the above-mentioned General Survey, namely that it considers that the protection of people with disabilities is of particular importance.

---

[13] ILC, 83rd Session, Geneva, ILO, 1996, para. 82.

[14] ILC, 82nd Session, Geneva, ILO, 1995, para. 135.

---

[15] For example, in *Australia*, pursuant to s. 15 of Act No. 135 of 1992 on discrimination based on disability, it is unlawful for an employer to discriminate against an employee on the grounds of the employee's disability by dismissing the employee. In the *Philippines*, the Magna Carta for Disabled Persons of 1992 considers that termination of the employment contract of a disabled person because of invalidity is a discriminatory dismissal, unless the employer can prove that the disabled person compromises the efficiency of the work and on condition that the employer has first sought to make reasonable adaptations for handicapped persons. In the *United States*, the Americans with Disabilities Act (ADA) of 1990 prohibits discrimination against a qualified individual in the law, in particular as regards discharge (s. 12101(b)(1)).

[16] For example, in *Austria*, under the Disabled Persons Employment Act, termination of a disabled person's employment can take place only with the authorization of the competent disability board; in *Germany*, by virtue of Notification of 26 Aug. 1986 to promulgate a consolidated text of the Severely Disabled Persons Act, an employer cannot usually terminate the employment contract of a severely disabled person without the prior authorization of the central assistance office.

[17] In *Mexico*, pursuant to s. 53 of the Federal Labour Act; in *Peru*, under s. 59 of the 1993 Promotion of Employment Act.

[18] For example, in *China*, in accordance with s. 29(1) of the Labour Law of 1994, the employer does not have the right to terminate a worker's employment if the worker has partially or entirely lost his capacity to work as a result of an occupational disease or injury.

[19] In *Australia*, various state workers' compensation statutes require alternative suitable employment to be provided by the employer to a partially incapacitated worker. This has been interpreted in one recent case as requiring an employer to create a job or a supernumerary post or under certain conditions terminating the employment of another employee to provide a partially incapacitated worker with suitable employment. In *Bulgaria*, this obligation is provided by s. 325 of the Labour Code, 1992, and in *France*, by s. L.122-32-5 of the Labour Code, as amended by Act No. 1446 of 31 Dec. 1992. In *Senegal*, by virtue of s. 21 of the interoccupational agreement of 27 May 1982, the contract of the victim of an occupational accident is suspended until the injury is healed, and where the injured worker is no longer able to resume work after the injury is healed and to perform it normally, the employer shall seek a way, with the workers' delegates in the enterprise, of placing the injured worker in another job.

112. Article 5, paragraph 1, of Convention No. 111 specifies that "special measures of protection or assistance provided for in other Conventions or Recommendations adopted by the International Labour Conference shall not be deemed to be discrimination"; Article 4 of Convention No. 159 also refers to such effective measures, emphasizing that "special positive measures aimed at effective equality of opportunity and treatment between disabled workers and other workers shall not be regarded as discriminating against other workers". Such measures are applied in an increasing number of both ratifying and non-ratifying countries.[20] They reflect a universal awareness of the need to provide certain categories of the population, such as women and people with disabilities, with special measures to enable them to effectively enjoy the rights that are already guaranteed in principle for all citizens. In its 1996 Special Survey on equality in employment and occupation, the Committee emphasized that it was important to ensure that the special measures concerned do in fact pursue the objective of offering protection or assistance, and tend to ensure equality of opportunity and treatment in practice, taking into account the diversity of situations of certain persons, so as to halt discriminatory practices against them. These types of preferential treatment are thus designed to restore a balance and are or should be part of a broader effort to eliminate all inequalities. Consequently, the Committee advocated that, because of the aim of protection and assistance which they are to pursue, the special measures adopted must be proportional to the nature and scope of the protection needed or of the existing discrimination. The Committee notes, however, that it is not clear whether the legislation of some countries providing for special positive measures concerning employment relationships and conditions of work in fact improves disabled persons' access to employment; rather, it would appear to constitute an obstacle.[21]

113. In any event, positive measures are very diverse. Paragraph 11 of Recommendation No. 168 refers to those enumerated in Part VII of Recommendation No. 99, and provides for additional measures necessary to meet the objective of occupational and social integration laid down in Article 1, paragraph 2, of Convention No. 159. Some of these measures, as well as the extent to which they are implemented in different countries, will be examined in sections II and III dealing with the obligations of States with respect to vocational rehabilitation and employment. The Committee has already observed in a recent Special Survey that the most widespread measure for special protection of disabled workers requires employers to hire a certain percentage of disabled workers which varies according to the size of the enterprise.[22]

---

[20] For example, *United States:* the Rehabilitation Act of 1973, as amended in 1992, requires federal agencies to take affirmative action to employ and promote people with disabilities; all enterprises which have federal government contracts for the supply of goods or services in excess of $10,000 shall take affirmative action to employ and advance in employment qualified individuals with disabilities.

[21] *Czech Republic:* a recent Act liberalizing employment relationships restricts employers' freedom with regard to people with disabilities; the negotiation of fixed-term contracts and the probationary period applicable to workers in general are not allowed in respect of disabled persons. In *Viet Nam*, the Labour Code provides for a lower limit on hours of work for people with disabilities than for other workers.

2. Equality of opportunity and treatment between disabled men and women workers

114. People with disabilities face many obstacles in their struggle for equality. Although both men and women with disabilities are subject to discrimination, women with disabilities are doubly disadvantaged by discrimination based on gender *and* their disability status. Women with disabilities are more likely than their male counterparts to be poor or destitute, illiterate or without vocational skills, and most of them are unemployed. They have less access to rehabilitation services, they are more likely to be without family or community support and they often suffer greater social isolation due to their disability. The situation is dramatic, and the Director-General of the ILO in 1981 pointed out that poor disabled women are all too frequently deprived of all human rights.[23]

Employment barriers for women with disabilities

115. People with disabilities in general face difficulties in entering the open labour market, but, seen from a gender perspective, men with disabilities are almost twice as likely to have jobs than disabled women.[24]

116. When women with disabilities work, they often experience unequal hiring and promotion standards, unequal access to training and retraining, unequal access to credit and other productive resources, unequal pay for equal work and occupational segregation, and they rarely participate in economic decision-making.[25]

117. A general trend worldwide is that women with disabilities are less likely to be referred to vocational training, have a harder time gaining access to rehabilitation programmes, are less likely to obtain equality in training, and if they are successfully rehabilitated, it is more likely to lead to part-time jobs or worse — unemployment. Among the general public and rehabilitation counsellors, the

[22] *Equality in employment and occupation*, ILC, 83rd Session, Geneva, ILO, 1996, para. 140.

[23] ILO: Report of the Director General, ILC, 67th Session, Geneva, 1981.

[24] For example, according to a study carried out in the *United States* almost 42 per cent of men with disabilities are in the labour force, compared to 24 per cent of women. In addition, while more than 30 per cent of disabled men work full time, only 12 per cent of disabled women are in full-time employment. Women with disabilities who work full time earn only 56 per cent of the earnings of full-time employed men with disabilities (these figures are taken from Bowe: *Disabled women in America: A statistical report drawn from census data* (1984)). Only 3 per cent of disabled women are registered in the labour force in *Ghana* (1996), 0.3 per cent in *India* (1991) and 19 per cent in the *Philippines* (1992). Most working women with disabilities are to be found in the informal sector (E. Messell: *Employment strategies for women with disabilities*, paper presented at the International Leadership Forum for Women with Disabilities (Washington, DC, 15-20 June 1997)).

[25] ILO: "Women swell ranks of working poor", in *World of Work*, No. 17, Sep.-Oct. 1996, ILO, Geneva.

attitude still persists that women with disabilities are passive, dependent, and not capable of or interested in taking up an occupation leading to employment.

118. Studies have found that, even in rich countries, major programmes designed to assist people with disabilities, such as supplemental security income, disability insurance, workers' compensation and vocational rehabilitation, disadvantage women because of their relationship to labour market participation. Not only do women receive fewer benefits than men, they also draw lower benefits. Moreover, despite their greater need, disabled women receive less from public income support programmes.[26]

119. The Committee notes that the reports communicated by governments indicate that most countries apply the principle of equality of opportunity in the fields of education, training and employment, without distinction based on race, colour, sex, language or any other ground, such as disability. However, the general trend is to have special initiatives for people with disabilities, but without targeting disabled women as a vulnerable group that needs special support. Consequently, since the legal framework is gender-neutral, discrimination against women with disabilities can easily take place without being registered.

120. In order to combat discrimination against women with disabilities in training and employment, several measures have been taken by the ILO, and these are reflected in a number of policies, Conventions, declarations and resolutions. The last resolution concerning ILO action for women workers, adopted in 1991, reaffirmed the Organization's concern for women workers, including women with disabilities. Lastly, ILO Convention No. 159 states that equality of opportunity and treatment of disabled men and women workers shall be respected. The Convention can be used in a strategy to remove barriers which stand in the way of full participation and integration of women with disabilities in the mainstream of society and in the economy.

II. Obligation to formulate and periodically review a national policy

121. Article 2 of the Convention provides that "each Member shall, in accordance with national conditions, practice and possibilities, formulate, implement and periodically review a national policy on vocational rehabilitation and employment of disabled persons". The use of the term "national policy" in the singular implies that States should adopt a single policy with respect to all categories of disabled persons throughout the entire territory, including rural areas and remote communities, expressly mentioned in Article 8. The Committee considers that the periodical review of the national policy is essential if it is to evolve, for it enables account to be taken of any observations on the effectiveness of the measures already implemented and the advisability of adopting new measures for the purposes laid down by the Convention.[27]

---

[26] N. Mudrick: "Disabled women and public policies for income support" (a study on the influence of income support on the lives of women with disabilities), in M. Fine and A. Asch (eds.): *Women with disabilities: Essays in psychology, culture and politics* (Philadelphia, Temple University Press, 1988).

1. Formulation of a national policy

122. Convention No. 159 does not lay down any strict rules concerning the manner or legal form in which the national policy is to be formulated. By referring to national laws or regulations or "any other method consistent with national conditions and practice" as the legal framework for such steps as may be necessary to give effect to the relevant provisions of the Convention, Article 6 leaves it to member States to formulate their national policy in such a way as to take account of all the national parameters likely to have a bearing on the nature and appropriateness of the decisions to be taken and implemented. The Committee has observed that the approach preferred by most countries in formulating their national policy under the Convention, in the case of ratifying States, or under the Recommendation, is to adopt legislation, accompanied by more or less extensive regulations. Often the legal basis for the national policy on vocational rehabilitation and employment is to be found in basic laws and constitutional provisions, supplemented by specific enactments, such as labour codes, general legislation and the regulations adopted to give effect to them, such as decrees and ministerial or interministerial orders.

123. In some countries the formulation of the national policy takes the form of programmes or national plans, and/or collective agreements.

124. The Committee notes that in a number of countries legislation applying to disabled persons focuses on protection and social insurance measures rather than on measures encouraging the social and occupational reintegration of disabled persons.[28]

(i) Constitutional provisions

125. These generally lay down fundamental rights such as the right to work, to engage in a freely chosen occupational activity, to education and vocational training,[29] or set forth general principles such as equality of opportunity and treatment. In many countries, specific constitutional provisions refer to the rights of people with disabilities in employment and occupation or guarantee the means to further their social integration. These include provisions concerning vocational rehabilitation and employment of disabled persons.[30]

---

[27] For example, the Government of the *United States* reports that since 1993, the National Council on Disability has been assigned the task of preparing and submitting each year to the President and relevant congressional committees a report entitled "National disability policy: A progress report" on the activities and research carried out under the policy and recommending ways in which they can be improved.

[28] In *Slovenia*, this situation is reported by the Association of Free Trade Unions of Slovenia.

[29] For example: *Bangladesh* (art. 15 of the Constitution of 1991); *Belarus* (art. 2 of the Constitution of 1994); *Belgium* (art. 23(1) of the Constitution of 1994); *Benin* (arts. 8 and 9 of the Constitution of 11 Dec. 1990); *Costa Rica* (art. 56 of the Constitution of 1919); *Cuba* (art. 40 of the Constitution of 1976); *Egypt* (art. 8 of the Constitution of 1980); *El Salvador* (art. 3 of the Constitution of 1983); *Equatorial Guinea* (art. 5 of the Constitution of 1991); *Estonia* (art. 12(1) of the Constitution of 1992); *Ethiopia* (under art. 41(5) of the Constitution of 1994, the State shall allocate resources to providing disabled persons, in particular, with the necessary means of rehabilitation and assistance and of improving their opportunities for securing gainful employment);

126. Some constitutions contain provisions referring either exclusively, or in the context of other provisions relating to the social and occupational integration and reintegration of people with disabilities, to the obligations of the State or the community to support disabled persons, without providing for any possibility for the latter to undergo vocational rehabilitation or exercise a gainful activity.[31]

(ii) Laws

127. Both ratifying and non-ratifying countries have adopted legislation on vocational rehabilitation and employment of persons with disabilities. As the Committee has already pointed out, Recommendation No. 99 prompted the adoption of a large number of laws aimed at furthering the vocational integration or reintegration of the disabled persons. Convention No. 159 and Recommendation No. 168 have served as a basis for a wide range of laws covering a variety of aspects of vocational rehabilitation. With increasing regularity States are adopting laws defining the coverage and substantive scope of measures for the vocational rehabilitation and employment of people with disabilities, and providing for special positive measures to give effect to the principle of equality of opportunity and treatment with respect to this category. There is also a remarkable amount of legislation laying down the criteria and methods for determining a person's

Grenada (Schedule 3, art. 1, of the Constitution of 1973); *Guatemala* (art. 101 of the Constitution of 1985); *Guinea* (art. 8 of the Constitution of 1990); *Guinea-Bissau* (arts. 23 and 36 of the Constitution of 1991); *Haiti* (art. 35 of the Constitution of 1987).

[30] *Bolivia* (art. 8(b) of the Constitution of 1967 lays down the principle that every citizen has the duty to work in accordance with his or her skills and abilities); *Brazil* (art. 6(31) of the Constitution of 1988); *Bulgaria* (art. 48(2) and 51(3) of the Constitution of 1991); *China* (art. 45(3) of the Constitution of 1982); *Colombia* (art. 13(3) of the Constitution of 1991); *Congo* (art. 31 of the Constitution of 15 Mar. 1992); *Croatia* (art. 57(3) of the Constitution of 1990: "The Republic assures special care for the protection of disabled persons and their inclusion in social life"); *Germany* (art. 3 of the Basic Law of 1949, as amended in 1994 to give effect to the provisions of the Convention, states: "No persons shall be disadvantaged on the grounds of a disability"); *Ghana* (art. 29 of the Constitution of 1992 deals with several aspects of rehabilitation, including measures concerning the family, medical, cultural, social and working environments); *Mozambique* (art. 68 of the Constitution of 1990); *Nicaragua* (art. 62 of the Constitution of 1987); *Peru* (art. 16 of the Constitution of 1993: "No persons shall be denied an education on grounds of [...] physical or mental impairments" and art. 23: "Work, in its different forms, is a primordial concern of the State, which protects, in particular working mothers, minors and disabled persons"); *Philippines* (section XI, art. XIII of the Constitution of 1986); *Slovakia* (art. 38(2) of the Constitution of 1992); *Slovenia* (art. 52 of the Constitution of 23 Dec. 1991); *South Africa* (art. 8 of the Constitution of 1993); *Tajikistan* (art. 34(3) of the Constitution of 6 Nov. 1994); *Turkey* (art. 61 of the Constitution of 1982); *Uganda* (art. 35 of the Constitution of 1995); *United Arab Emirates* (art. 16 of the Constitution of 1971).

[31] *Benin* (art. 26(2) of the Constitution of 11 Dec. 1990); *Niger* (art. 20(3) of the Constitution of 1992).

disability status.[32] But even more telling evidence of emerging concern for the needs of disabled persons in national policies is the proliferation of enactments making provision for state support to help people with disabilities overcome their social integration problems and the search for appropriate means of identifying disabilities increasingly early so as to mitigate their impact on working life and prepare people to cope in the world of work. Many countries adopt specific legislation to give effect to relevant constitutional provisions in one or more areas of vocational rehabilitation, in accordance with national conditions and possibilities (as provided by the Convention). The influence of Recommendation No. 168 is largely reflected in the adoption of legislative provisions on the implementation of specific measures to which the Convention does not refer but whose purpose is in line with its objectives; these will be examined in more detail below.

(iii) *Regulations*

128. The relevant regulations are a means of assessing progress in the status of people with disabilities, as well as reflecting the stage reached in the process of equalization of opportunities. Since they are adopted and amended more quickly than laws, they provide a means of adjusting the measures to which they refer in the light of the results obtained. In many countries they are the preferred method of either adjusting measures that prove to be ineffective or extending the scope of those that have yielded satisfactory results.

(iv) *National plans and programmes*

129. A number of governments state that the policy on vocational rehabilitation and employment of people with disabilities is formulated through national plans and programmes. Not enough information has been supplied to enable an assessment to be made of how far these instruments meet the requirements laid down in the Convention. Other governments cite more or less long-term plans and programmes, coupled with general legislation.[33]

(v) *Collective agreements*

130. Mention should be made of the "agreements" signed between the public authorities or agencies responsible for vocational rehabilitation programmes and training, vocational training and placement institutions, or with enterprises on specific measures for people with disabilities.[34] In *France*, only the *Banques populaires* and the *Fédération des établissements hospitaliers de l'Assistance privée* (FEHAP), to which one third of private hospitals are affiliated, have concluded branch agreements. People with disabilities reportedly accounted for 5.5 per cent of FEHAP employees in 1995.[35] Enterprise and establishment agreements were signed in several major public enterprises.[36]

---

[32] See Ch. 1 on the scope of the instruments as regards individuals.

[33] In *Austria,* the federal Government has adopted a plan for disabled persons (European Commission: Mutual Information System on Employment Policies (MISEP), Basic Information Report, Austria, 1995); the Government of *China* has designed a Five-year Work Programme for the Disabled under which the China Handicapped Persons' Federation plays a coordinating role in the implementation of rehabilitation policy (Point 16 of the Five-year Work Programme for the Disabled (1988-92)); the Government of the *Czech Republic* states that in June 1992 the National Council on Persons with Disabilities adopted a National Plan to Assist Persons with Disabilities; in *Peru*, a special programme for the employment of people with disabilities has been adopted (Act No. 23.285 of 16 Oct. 1980). It provides explicitly for the participation of institutions representing people with disabilities in its implementation.

Federal States[37]

131. None of the federal States that have ratified the Convention have reported particular difficulties in the application of provisions of the Convention arising out of the federal structure of their administration. Generally speaking, the policy on vocational rehabilitation and employment is formulated at the central level, while its implementation is the responsibility of the governments of the federal States.[38]

---

[34] For example, in *Indonesia*, under Decree No. 36 of 29 Oct. 1980 (Government Regulations on the Effort towards Social Welfare for Disabled Persons), a collective agreement has been concluded between the Minister of Social Affairs, the Minister of Labour and the Minister of the Interior, on the one hand, and the national employers' association (APINDO), on the other, on the placement of persons with disabilities who are trained as skilled workers by the Ministry of Social Affairs; in *New Zealand*, the Government is not the exclusive provider of a vocational rehabilitation services, as these are subcontracted to private organizations. The vocational rehabilitation programme (Job Support Programme) is carried out by Workbridge, a specialized agency, under a contract with the New Zealand Employment Services (NZES); in *Senegal*, the interoccupational agreement of 27 May 1982 provides that the employer of a worker disabled as the result of an occupational injury must make every effort to place him or her in another job; in the *United Kingdom*, the Government has adopted a system whereby vocational rehabilitation is subcontracted to external providers such as agencies set up by local communities, specialized private sector organizations and other institutions.

[35] *Alternatives économiques*, No. 133, Jan. 1996.

[36] According to the same source, in 1995 the French Electricity Board (EDF) planned to hire 280 disabled workers over a period of three years.

[37] See F. Maupain: "Federalism and international labour Conventions: Some reflections prompted by two anniversaries", in *International Labour Review*, Vol. 126, No. 6, Nov.-Dec. 1987, pp. 625-651.

[38] In *Australia*, vocational rehabilitation is the responsibility of a central federal structure liaising with local agencies in each federal state. In *Belgium*, it is the federal authorities that deal with matters relating to benefits for vocational rehabilitation, which are treated as health care benefits; other matters are administered and managed by the communities: the Flemish Fund for the Social Integration of Disabled Persons was established by Decree of 27 June 1990; the Office for Disabled Persons and for Special Social Assistance of the German-speaking community was established by Decree of 19 June 1990, and the Community Fund for the Social and Occupational Integration of Disabled Persons was established by Decree of 3 July 1991. *Canada* has developed a very complex body of legislation and regulations dealing with a wide range of aspects of vocational rehabilitation and employment and covering most of the problems faced by people with disabilities both in working life and in their physical, social and cultural environment. In *Germany*, the Federal Labour Institution has an advisory role on all matters relating to vocational guidance, vocational training and placement. Specialized sections of the local employment offices deal with matters relating to people with disabilities.

2. Periodical review of national policy

132. The periodical review of national policy is one of the obligations of member States laid down by Article 2 of the Convention. In practice it means evaluation of the policy at intervals that are left to Members' discretion. In some countries, the number and frequency of enactments indicate scrupulous adherence to this obligation.[39] In others, the frequency of policy reviews is laid down by laws or regulations and the task of deciding whether to revise the provisions in force is assigned to special bodies.[40]

133. Evaluation is an essential function of the labour administration in the national employment policy field and should take into account the promotion of equality of opportunity and treatment, particularly for disadvantaged groups and categories of persons. Evaluation procedures make it possible to provide valuable information to the decision-making bodies responsible for formulating and implementing national employment policy. The need to assess achievement of the targets, set for the purpose of providing an effective public service, is more important than ever for decision-makers and managers in the labour administration system, in view of budgetary difficulties in particular. It is a management tool for explaining success or failure in achieving the targets set by national employment policy and the programmes for promoting employment and studying the effects of employment policy measures at the general level.

134. It is difficult to judge the extent to which the evaluation function is carried out in member States, including those in which there are bodies responsible for evaluating the achievement of objectives.[41] In the countries of the European Union, an employment policy monitoring system has become an essential feature in carrying out programmes. This system consists of observing regularly the statistical indicators relating to the methods employed and the results obtained as well as to performance. In these countries, the competent bodies which provide national employment policy monitoring are chiefly the ministries of labour or the ministries of employment, in collaboration with the associated structures, namely the bodies established under the ministries responsible.

---

[39] For example, *Australia, Belgium, Canada, France, Netherlands* and *United States*.

[40] In the *Russian Federation*, for example, Decree No. 1647 of 15 Oct. 1995 provides that the Coordinating Committee on Matters relating to People with Disabilities shall draw up a report every three years on the situation of people with disabilities.

[41] For example, *Algeria*, where this function is the responsibility of the National Consultative Council for the Protection of Disabled Persons established by Decree No. 81-338 of 12 Dec. 1981, amended by Executive Decree No. 92-381 of 13 Oct. 1992, while research work on the socio-occupational integration of the disabled comes under the Public Establishment for the Social and Occupational Integration of Disabled Persons established by Executive Decree No. 91-535 of 25 Dec. 1991.

III. Consultation of representative organizations

135. Article 5 of Convention No. 159 provides for consultation of representative organizations of employers and workers on the implementation of the national policy on vocational rehabilitation and employment, "including the measures to be taken to promote cooperation and coordination between the public and private bodies engaged in vocational rehabilitation activities". Explicit reference is also made to consultation of organizations of and for disabled persons.

136. Several provisions of Recommendation No. 168 refer to the contribution of organizations of employers and workers to the development of vocational rehabilitation services: Paragraph 32 recommends that "Employers' and workers' organizations, together with disabled persons and their organizations, should be able to contribute to the formulation of policies concerning the organization and development of vocational rehabilitation services, as well as to carry out research and propose legislation in this field"; Paragraph 33 provides that "wherever possible and appropriate, representatives of employers', workers' and disabled persons' organizations should be included in the membership of the boards and committees of vocational rehabilitation and training centres used by disabled persons, which make decisions on policy and technical matters, with a view to ensuring that the vocational rehabilitation programmes correspond to the requirements of the various economic sectors".

137. From its survey of national legislation and the information provided by governments, the Committee has observed that different forms of consultation of varying scope take place. It notes with interest that in an increasing number of countries, consultations are held with representatives of the three categories of organizations referred to in Article 5 of Convention No. 159. In other countries, two of these organizations are represented,[42] and in some cases only one; in the latter case, it is the representative organization of and for disabled persons that takes part. Consultation sometimes takes the form of ad hoc communications on the planned implementation of programmes or the general policy concerning people with disabilities.[43]

---

[42] For example, in *Pakistan*, the National Council for Rehabilitation of Disabled Persons, established by Ordinance No. XL of 1981, and composed of members of the Government, persons engaged in the welfare of the disabled and a trade union representative, is responsible for the formulation of national employment, rehabilitation and welfare policy for disabled persons; it assesses and coordinates the implementation of the national policy through Provincial Councils.

[43] For example, in *Australia*, consultation took the form of communications with employers' and workers' organizations when preparing plans under the Disability Services Act, 1986, and within an Occupational Rehabilitation Advisory Forum on the implementation of the return to work policy; in *Azerbaijan*, the Ministry of Social Affairs, together with the other ministries, the local authorities and associations of people with disabilities, designs short and long-term programmes for the implementation and supervision of national policy (s. 6 of Act of 25 Aug. 1992 on the social protection of people with disabilities); in *Ireland*, a Green Paper on services for disabled persons in the fields of education, vocational training and employment was drafted in 1984 with the participation of the three types of representative organizations; in *Lebanon*, organizations of people with disabilities participate in designing national policy (s. 5 of Act No. 243 of 12 July 1993

138. A few countries do not refer to any consultation procedures on the matters covered by the instruments.[44]

1. Consultation of representative organizations of employers and workers as well as representative organizations of and for disabled persons

139. The Committee notes that consultations increasingly involve organizations of or for disabled persons, in accordance with the provisions of the Convention. Numerous countries report that various permanent councils and committees have been set up and are consulted on the implementation of the national policy.[45] In other countries, representative organizations of employers and workers and organizations of or for people with disabilities have been assigned a more active role and are represented on various bodies responsible for drafting or

---

respecting disabled persons, amending Act No. 11/73 of 31 Dec. 1973 on the protection of disabled persons); the Government of *Norway* states that employers' and workers' organizations participate in drafting the disabled persons' vocational rehabilitation policy and in planning, implementing and developing services; in *Peru*, organizations of people with disabilities participate in the implementation of the Special Programme for the Employment of People with Disabilities (Act No. 23 285 of 16 Oct. 1980); the Government of the *Russian Federation* states that the trade unions have the right to participate in the implementation of the national return to work policy, which includes the employment of people with disabilities; the Government of *San Marino* states that it encourages vocational rehabilitation initiatives that are considered as appropriate and necessary by employers' and workers' organizations for the integration and placement of people with disabilities (s. 10(1) of Act No. 71 of 29 May 1991 respecting the occupational integration of disabled persons); in *Slovenia*, representative organizations of disabled persons participate in the design of social policies for the training and employment of people with disabilities and in drafting various laws and regulations concerning these persons; in the *United Kingdom (Jersey)*, the Vocational Service for People with Special Needs has been reorganized in consultation with the social partners.

[44] *Bahrain, Belize, Islamic Republic of Iran, Italy, Paraguay, Qatar.*

[45] For example, in *Austria* (Federal Disabled Persons Act; BGB 1 No. 283/1990) and in *Japan* (Law for Employment Promotion of the Disabled (No. 123 of 1960) (ss. 2-6(3) and 72 to 77)), consultations on the formulation of the national policy take place in councils; in the *Czech Republic*, associations of and for people with disabilities are represented on the Board of Representatives of People with Health Impairments (established by Decision No. 151 of 8 May 1991), while each employment service has a consultative body composed of representatives of workers, employers and organizations of people with disabilities (Employment Act, 4 Dec. 1990); in *France*, the Higher Council on the Occupational and Social Resettlement of Disabled Workers gives its views on laws and regulations concerning people with disabilities (ss. R 323-81 to R 323-83 and ss. R 323-85 to R 323-92 of the Labour Code); in *Mauritius*, the Training and Employment of Disabled Persons Board is consulted by the Government; in *Sweden*, disabled persons boards have been established at the central and local levels (National Insurance Act, AFL 1962:381); in the *United Kingdom*, the National Disabled Persons' Employment Board is consulted by the Government on matters relating to the training and employment of people with disabilities (Disabled Persons (Employment) Act, 1994, as amended by the Chronically Sick and Disabled Persons Act, 1970 and the Disability Discrimination Act, 1995), a national government council and a special government council for Northern Ireland have been set up and give their views on the application of the Disability Discrimination Act, 1995, with the exception of its provisions relating to employment.

implementing policies, measures and programmes in the field of vocational rehabilitation and employment of people with disabilities.[46]

2. *Consultation of representative organizations of employers and workers*

140. The Committee has observed that in a number of countries consultations under Article 5 of the Convention are limited to organizations of employers and workers, without including organizations of and for disabled persons.

141. Some governments have set up permanent bodies to hold consultations with the representative organizations of employers and workers.[47] Several reports state that bodies have been set up for cooperation and negotiation and are involved in the formulation and/or implementation of the national policy on vocational rehabilitation and employment of disabled persons.[48]

---

[46] For example, in *Chile*, the Board of the National Disability Fund (FONADIS) is empowered, inter alia, to award tenders, decide to hold competitions, allocate subsidies and approve the annual programme of action and budget proposals of FONADIS and amendments thereto (Act No. 19.284 of 1994); in *Cyprus*, the Rehabilitation Council was set up to draft relevant legislation and implement vocational rehabilitation measures and programmes (Mentally Retarded Persons Law, No. 117/89); in *Finland*, the National Advisory Committee on Rehabilitation, in coordination with the Ministry of Social Affairs and Health, monitors the implementation of the national policy (Act of 1 Jan. 1991 on rehabilitation); in *Germany*, a Consultative Board for People with Disabilities in the Federal Labour Institution and Consultative Committees for People with Disabilities in the Central Assistance Offices participate in the implementation of the national policy on the promotion of employment of people with disabilities (ss. 32 and 34 of the Severely Disabled Persons Act of 26 June 1986); in the *Philippines*, the Inter-agency Committee on Employment Promotion, Protection and Rehabilitation of Persons with Disabilities coordinates and monitors the implementation of the Magna Carta for Disabled Persons (Republic Act No. 7277 of 24 Mar. 1992) concerning the rehabilitation, self-development and self-reliance of disabled persons. It also has the task of designing and developing a public information and education programme to promote the employment of people with disabilities (Executive Order No. 261 of 17 July 1995 creating an Inter-agency Committee on Employment Promotion, Protection and Rehabilitation of Persons with Disabilities); in *Tunisia*, the National Council for Disabled Persons assists the Minister of Social Affairs in designing, implementing and supervising the national policy (Decree No. 96-849 of 1 May 1996 establishing a National Council for Disabled Persons, replacing the Council established by Decree No. 88-2051 of 22 Dec. 1988).

[47] For example, in *Australia*, according to information communicated by the Government, an Advisory Council for Disability Services has been set up for consultation on the design and implementation of policies, services and programmes concerning people with disabilities (Disability Services Act, No. 129 of 1986); in *Burkina Faso*, a consultative committee comprising an equal number of employers and workers has been set up (s. 230 of the Labour Code of 1992; Act No. 11-92 of 22 Dec. 1992); the Government of *Greece* refers to tripartite departmental committees in which a representative of organizations of people with disabilities replaces the workers' representative when matters affecting the interests of people with disabilities are discussed; in *Lithuania*, the Government states that a tripartite consultative committee was set up in 1996 to deal with matters relating to the implementation of the Act respecting the integration of people with disabilities.

[48] For example, in *Belgium*, in the German-speaking community, the Office for Disabled Persons includes a board of management on which representative organizations of employers and workers participate in implementing policy on people with disabilities (Government Order of 26

142. In this context, the Committee recalls the opinion it already gave regarding the essential and indispensable nature of close involvement of employers' and workers' organizations in projects concerning human resources development with a view to the effectiveness of any programme designed for that purpose and affirmed that the success of any human resources development policy depends largely on effective participation by the social partners.[49] Emphasizing both the integration of people with disabilities in a non-institutional framework and general public information and awareness, ILO technical cooperation projects increasingly involve employers' and workers' organizations in the training and employment of disabled persons.

3. Consultation of organizations of and for disabled persons

143. In some countries, only organizations of and for people with disabilities are consulted in bodies set up for this purpose.[50] A large number of governments refer to participation of organizations of people with disabilities in various bodies responsible, inter alia, for formulating, implementing and supervising the national policy.[51]

Apr. 1994 respecting the promotion of employment of disabled persons in the labour market); in *Denmark*, the National Labour Board participates in administering, planning and coordinating placement activities, including those for people with disabilities (ss. 3(1) and 4 of the Consolidated Act on the Public Employment Service and the Unemployment Insurance System, No. 423 of 7 Aug. 1981).

[49] ILC, 78th Session, 1991, ILO, Geneva, para. 322.

[50] For example, in *Argentina*, the Advisory Committee of the National Commission on the Integration of People with Disabilities comprises representatives of private non-profit-making associations of or for people with disabilities (Decree No. 1101 of 10 July 1987); in *Costa Rica*, Act No. 5347 of 3 Sep. 1973 to establish the National Rehabilitation and Special Education Council does not provide for consultation with organizations of people with disabilities, but the Government states that these are consulted in practice; in *Ethiopia*, the Government Rehabilitation Agency for the Disabled maintains regular contacts with associations of people with disabilities (Rehabilitation Agency for the Disabled Order, No. 70/1971); in *Iceland*, the Minister of Social Affairs consults the council dealing with matters relating to persons with disabilities (s. 4 of the Disabled Persons Act, No. 59 of 1992); in *Suriname*, the Government refers to a National Council for Disabled Persons; in *Thailand*, the Committee for the Rehabilitation of Disabled Persons assists the Minister in implementing the national policy (Disabled Persons Rehabilitation Act, B.E. 2534); in *Zambia*, the Government mentions consultation within the Zambian Council for Disabled Persons.

[51] For example, in *Belgium*, in the Walloon Region, the Committee of the Walloon Community Agency for the Integration of People with Disabilities is responsible, inter alia, for drafting proposals for action and planning at the regional level, participating in the regional and interministerial coordination of the policy on disabled persons and promoting their vocational training and access to employment (Decree of 6 Apr. 1995); in *Chad*, the National Inter-ministerial Committee is responsible for laying down general guidelines for the promotion of people with disabilities; in *China*, the China Disabled Persons Federation plays a coordinating role in the implementation of rehabilitation policy (point 16 of the Five-Year Work Programme for the Disabled (1988-92)); in *Ecuador*, under s. 9 of the Act of 7 Aug. 1992 respecting disabled persons, organizations of people with disabilities elect a member to represent them on the board of the National Council of Disabled Persons, which drafts national policies, formulates and implements the national plan for disabled persons and coordinates the action taken by public and private sector

144. The Committee has observed however that some governments refer to consultation of various representative organizations on matters relating to vocational rehabilitation, without stating the purpose or frequency of such consultations.

IV. Promotion of vocational rehabilitation and employment services in rural areas and remote communities

145. As mentioned above in paragraph 101, statistics show that 80 per cent of all people with disabilities in developing countries live in rural areas and remote communities. When the instruments under consideration were being drafted, one of the main concerns was to enable these people to overcome their situation. Article 8 of Convention No. 159 provides in general terms that "measures shall be taken to promote the establishment and development of vocational rehabilitation and employment services for disabled persons in rural areas and remote communities". Recommendation No. 168 advocates particular efforts to provide vocational rehabilitation services for disabled people in rural areas and in remote communities at the same level and on the same terms as those provided for urban areas, and adds that the development of such services should be an integral part of general rural development policies.[52] There follows an indicative list of measures which should be taken to:

(a) designate existing rural vocational rehabilitation services or, if these do not exist, vocational rehabilitation services in urban areas as focal points to train rehabilitation staff for rural areas;

---

institutions; in *Malawi*, the Malawi Council for the Handicapped designs projects in the field of vocational rehabilitation (Handicapped Persons Act, No. 48 of 1971); according to information provided by the Government of *Tajikistan*, the inter-agency council responsible for coordinating policies for people with disabilities decides on measures necessary to enforce the relevant legislative provisions; in the *United Kingdom (Isle of Man)*, the Chronically Sick and Disabled Persons' Committee, established under the Chronically Sick and Disabled Persons' Act, 1981, has competence for giving opinions on all questions concerning disabled persons; under it, the Subcommittee for the Employment of Disabled People was set up to develop a coordinated policy on education, training and employment of disabled persons; in the *United States*, organizations of people with disabilities participate in drafting programmes for their social and occupational integration in the National Council on Disability (former 29 USCS §780, Act of 26 Sep. 1973, P:L 93-112, Title IV, §400, 87 Stat 385, amended by Act of 6 Nov. 1978, P:L 95-602, Title I, §117, 92 Stat 2977); in *Uruguay*, a representative of each of the most representative organizations of people with disabilities participates in the National Honorary Committee on Disabled Persons, which is responsible for designing, evaluating and implementing the national policy on the promotion, development, rehabilitation and social integration of people with disabilities (Act No. 16 095 of 1 Nov. 1992). However, the Government states that although no express provision is made for consultation of representative organizations of employers and workers, such consultation does take place in practice.

[52] Para. 20.

(b) establish mobile vocational rehabilitation units to serve disabled persons in rural areas and to act as centres for the dissemination of information on rural training and employment opportunities for disabled persons;

(c) train rural development and community development workers in vocational rehabilitation techniques;

(d) provide loans, grants or tools and materials to help disabled persons in rural communities to establish and manage cooperatives or to work on their own account in cottage industry or in agricultural, craft or other activities;

(e) incorporate assistance to disabled persons into existing or planned general rural development activities;

(f) facilitate disabled persons' access to housing within reasonable reach of the workplace.

146. The information provided by governments on vocational rehabilitation and employment services in rural areas and remote communities is not sufficient to enable the Committee to assess the extent to which the instruments are applied. This lack is regrettable, particularly on the part of governments of developing countries, as it is well known that in most of these countries it is mainly the rural populations that are affected by disability, and that encouraging results have been achieved by innovative programmes in rural areas and remote communities. Through the ILO's work in rehabilitation, with a number of governments and organizations of people with disabilities, the Committee has become aware of some of the problems which confront them in supporting and monitoring programmes far from head and regional offices. The best results have been achieved through the various models of community-based rehabilitation (CBR). These rely largely on voluntary, community and family resources and are less costly than public rehabilitation institutions.

147. Recommendation No. 168 describes several models of state intervention in rural areas and remote communities as an integral part of general rural development. It also proposes that mobile vocational rehabilitation units serve disabled persons in rural areas and act as information resources on training and employment opportunities for these persons.[53]

148. Administrative organizations in the state or voluntary sector which have regional or district structures are well placed to implement outreach services. The lines of managerial responsibility are more easily enforced than in the inter-agency cooperation model.[54]

---

[53] The Government of *Brazil* states that the long-term plan for rehabilitation services aims to operate 22 mobile rehabilitation units; the Government of *Uganda* reports the existence of one mobile unit for vocational rehabilitation of disabled women.

[54] The Government of *Argentina* reports that the National Advisory Committee for the Integration of Disabled Persons has developed provincial bodies which provide services in rural areas; in *Costa Rica*, s. 23 of the Equality of Opportunity for Persons with Disabilities Act, No. 7600 of 1995, provides that the State shall guarantee, in rural as well as in urban areas, the right of disabled people to employment in line with their personal circumstances and needs; the Government of *El Salvador* states that a draft cooperation agreement was signed between the Institute for the

149. The Committee has observed that developing countries with a significant rural population have been experimenting with various models of CBR in recent decades. These have not always proved to be the inexpensive panacea that they may have once appeared to be. Nonetheless, they remain a valid, perhaps even an essential, way of serving people with disabilities living in rural areas and remote communities, who usually had to obtain rehabilitation in towns and cities far from their homes and families. Moreover, institution-based rehabilitation is costly and may yield disappointing results for people with disabilities living in rural areas. Vocational rehabilitation services should draw on the resources of each community, mobilizing and making the most effective use of what is already there rather than taking urban concepts, equipment and personnel to meet rural needs. Nonetheless, the provision of services in rural areas and remote communities requires cooperation and coordination between all the agencies concerned.

150. In the more developed countries the situation appears to be less acute. The difference in lifestyle and opportunities between urban and rural areas tend to be less marked. Few communities are truly remote and the growth of communications technology enables some people with disabilities to work from home. Nonetheless, the Committee noted that the report of the Government of *Finland* states that 36 per cent of the population lives in rural areas and that it is difficult for people with disabilities in these areas to find jobs.

Section II. Obligations of the State with regard to vocational rehabilitation

151. During the preparatory work on Convention No. 159 and Recommendation No. 168, it emerged that the provisions of Recommendation No. 99 concerning the designation of national authorities responsible for vocational rehabilitation and employment of people with disabilities and cooperation between such authorities were generally put into practice in member States. The multidisciplinary nature of vocational rehabilitation had become widely recognized as the concept of rehabilitation evolved. Accordingly, in applying the provisions of the Convention, Members should be guided by the standards laid down in Recommendation No. 99 from the standpoint of organization as well as from that of other aspects of vocational rehabilitation and employment of people with disabilities.

Rehabilitation of Disabled People and the Vocational Rehabilitation Centre in order to bring rehabilitation services to rural areas and remote communities; the Government of *Finland* reports that vocational rehabilitation services are offered wherever disabled persons live, so that there have already been improvements in the services to farmers who have occupational diseases or employment injuries; in *Greece*, people with disabilities who live in rural areas may apply to existing local employment services in order to receive vocational training; in *Poland*, 127 rural and community health centres have been equipped with rehabilitation equipment under a programme started in 1995; the Government of *Uganda* reports the development of a community-based rehabilitation programme with a training-employment component and refers to the existence of seven rural vocational rehabilitation centres.

152. The manner in which the provision of vocational rehabilitation and employment services is organized often reflects the social structure of a country as well as its traditions and level of economic development.[55]

I. Competent authorities and coordination of their activities

153. Under Paragraph 16 of Recommendation No. 99, administrative responsibility for the general organization and development of vocational rehabilitation services should be entrusted either to one authority or jointly to the authorities responsible for the different activities in the programme, with one of these authorities entrusted with primary responsibility for coordination. Paragraph 17 provides further that the competent authority or authorities should take measures to achieve cooperation and coordination between the public and private bodies engaged in vocational rehabilitation activities; Paragraph 26 emphasizes the need for the closest cooperation between, and the maximum coordination of, the activities of the bodies responsible for medical treatment and those responsible for the vocational rehabilitation of disabled persons.

154. The formulation of the national policy is often an entirely separate task from that of creating, developing and administering vocational rehabilitation and employment services for people with disabilities. Yet, it is logical for the policy-making body to receive data and information from all of the units that make up the administrative apparatus and technical infrastructures of vocational rehabilitation. The administrative organization of vocational rehabilitation thus includes, on the one hand, designating the national authorities responsible for formulating, monitoring and reviewing the national policy and, on the other, determining the responsibilities of the bodies competent to implement it. In many countries, alongside the government representatives in charge of the ministerial departments involved in vocational rehabilitation and certain individuals recognized as authorities on the subject, the national policy-making body includes representatives of organizations of employers, workers and people with disabilities. This is the case mainly of countries where the latter have strong organizations and where their representatives have made themselves heard in policy-making bodies.[56] The practice occurs in other countries where people with disabilities have begun to organize, in particular, under the impetus of measures undertaken and coordinated by the United Nations in the last two decades, and where their representation in national policy-making institutions has begun to have a favourable impact on their social and occupational situation.[57]

---

[55] For example, in *Australia* and *Sweden*, services provided by specialists are available to people with disabilities who need special support and whose needs are not all met by available services; in *Denmark* and in the *United States*, the private sector is becoming increasingly involved in the provision of services, with the emergence of a system in which services are provided by organizations of people with disabilities, which have their own vocational rehabilitation specialists; in *Ireland*, non-institutional vocational rehabilitation services are traditionally provided by charitable and religious institutions of the voluntary sector; in *Italy*, cooperatives provide vocational training services to those of their members who are disabled.

[56] For example, in *Australia*, an Office for People with Disabilities has been set up in the Ministry of Health, Habitat and Community Services; in *China*, the China Disabled Persons' Federation, partly composed of government representatives, was set up in 1983 and is involved in coordinating and administering the vocational rehabilitation and employment services for people with

155. The most common practice is for one ministerial department to head the organization and development of vocational rehabilitation measures and to collaborate with other departments whose duties are directly or indirectly linked to the vocational rehabilitation of people with disabilities; this is in conformity with the provisions of Recommendations Nos. 99 and 168. The Committee notes that in most of the countries considered, it is traditionally the ministry of labour and/or social affairs (including social security) which bears the main responsibility for the matters dealt with in the instruments.[58]

156. The Committee has observed that the number of ministerial departments involved in organizing and developing vocational rehabilitation generally depends on the range of fields covered.[59] In some countries government structures such as those responsible for telecommunications, environment, urban planning and local communities are involved.[60] One government states that matters relating to people with disabilities are the responsibility of the Council of Ministers, without mentioning any participation by the social partners.[61]

---

disabilities, with its own structures for the provision of services in these fields; in *France*, the AGEFIPH is a fund administered by a national association established under private law, in which organizations of employers, workers and people with disabilities are represented. One of its major tasks is to collect compulsory employers' contributions for the vocational rehabilitation and employment of people with disabilities and to allocate these resources to various measures for their occupational integration, such as subsidies to employers who hire and train people with disabilities; in *Japan*, the Japan Association for the Employment of the Disabled; in *Switzerland*, the Federal Social Insurance Office; in the *United States*, the National Council on Disability is an independent federal agency which drafts and reviews the national policy and decides on measures to be taken for the equalization of opportunities of people with disabilities.

[57] For example, in *Uruguay*, Act No. 16.095 of 26 Oct. 1989 established the National Honorary Committee on Disabled Persons, comprising representatives of the Ministries of Health, Education and Culture, Labour and Social Security and representatives of organizations of people with disabilities. This Committee is responsible for drafting the national policy and coordinating its implementation.

[58] *Bangladesh, Benin, Bulgaria, Cambodia, Congo, Croatia, Czech Republic, Egypt, Estonia, Ethiopia, Islamic Republic of Iran, Italy, Republic of Korea, Lebanon, Nicaragua, Peru, Philippines, Russian Federation, Saudi Arabia, Slovenia, Thailand.*

[59] *Bahrain* (Labour and Social Affairs), *Belize* (Labour, Health, Education), *Indonesia* (Interior and Social Affairs), *New Zealand* (Labour, Education and Workers' Compensation and Rehabilitation Insurance), *Pakistan* (Labour, Manpower and Foreigners; Health and Social Welfare; Special Education), *Romania* (the Secretary of State for Disabled Persons liaises with the Ministries of Labour and Social Protection, Health and Education), *Suriname* (Social Affairs, Education, Labour), *Tunisia* (Social Affairs), *Viet Nam* (Labour, Disabled and Social Affairs; Health).

[60] In *Chile*, for example, the ministries of transport and telecommunications are also involved in implementing the policy on the rehabilitation and social integration of people with disabilities.

[61] *Turkey*.

157. Often, the competent ministerial departments delegate responsibility for implementing the vocational rehabilitation policy at the national level to bodies set up within these authorities for this purpose.[62]

158. The Committee has also observed that, in some countries where vocational rehabilitation and employment of people with disabilities is covered by more than one ministerial department, responsibility for representing the rights and interests of disabled people at the national level is entrusted to an official chosen from among the senior officials responsible for the different areas of vocational rehabilitation.[63]

II. Delegation of government responsibilities to local authorities

159. Parallel to the tendency to delegate certain rehabilitation functions to private enterprises and voluntary organizations, there has been a trend in many countries to decentralize administrative and technical tasks involved in the implementation of the national policy and programmes to local authorities.[64] The

---

[62] In *Argentina*, under Act No. 24.557, the Occupational Hazards Directorate is the authority within the Ministry of Labour and Social Security that is responsible for supervising the implementation of the policy on the vocational rehabilitation and employment of people with disabilities and for proposing the necessary adjustments; in *Brazil*, a Coordinating Office for the Integration of People with Disabilities (CORDE) is attached to the Ministry of Justice; in *Chad*, the National Committee on Disabled Persons is attached to the Disabled Persons Division of the Ministry for Women's Issues, Children and Social Affairs; in *Costa Rica*, Act No. 5347 of 3 Sep. 1973 established a National Commission on Rehabilitation and Special Education, responsible for guiding general policy in these fields, in coordination with the ministries concerned; in *Cuba*, the National Council for Disabled Persons is presided over by the Minister of Labour and Social Security. It comprises representatives of the various competent authorities and is responsible for submitting policy proposals on people with disabilities, coordinating the policy and supervising its implementation; in *Mauritius*, the Training and Employment of Disabled Persons Board comprises four persons representing the interests of people with disabilities, and two representatives of employers appointed by the labour ministry; in *Morocco*, the High Commission for Disabled Persons, a tripartite body without representation of people with disabilities, is attached to the Office of the Prime Minister; in *Peru*, a national consultative committee for selective placement is attached to the General Directorate for Employment of the Ministry of Labour and Social Promotion.

[63] For example, in *Morocco*, the High Commissioner for People with Disabilities; in the *Philippines*, the Sectoral Representative of People with Disabilities; in *Poland*, the Plenipotentiary appointed from within the Ministry of Labour and Social Policy, who supervises the implementation of the multidisciplinary programme of action for the vocational rehabilitation of people with disabilities; in *Romania*, the State Secretariat for People with Disabilities.

[64] In *Denmark*, since the 1970s, the Government has delegated certain responsibilities to local administrations with a view to gradually shifting the emphasis to vocational rehabilitation in a normal setting. In *France*, programmes for the integration of people with disabilities are supervised by the Departmental Directorate of Labour, Employment and Vocational Training; a working party has been set up to design measures for the placement of disabled workers. It coordinates and facilitates all measures in this sphere and liaises with the administrations concerned as well as with associations representing people with disabilities. At the local level, its functions are carried out by two bodies attached to the Ministry of Labour, Employment and Vocational Training: the ANPE

Committee notes that in industrialized countries where people with disabilities are an influential group, local authorities often have extensive powers.[65]

160. In most countries where state responsibilities are delegated to local authorities and communities, the central authority retains competence for determining and formulating the national policy and ensuring that it is applied in a coherent manner, while the local bodies are responsible for implementation. The Committee considers that this allocation of responsibilities among central and local bodies conforms to the requirement to respect the principle of equal treatment of people with disabilities living in different regions, including in federal States.

III. Cooperation and coordination for the provision of vocational rehabilitation services

161. Recommendation No. 99 and Recommendation No. 168 give precise indications of the role that each of the many social actors involved should play in the activities involved in vocational rehabilitation and employment of people with disabilities. Paragraph 26 of Recommendation No. 99 lists the positive effects of cooperation and coordination between the bodies responsible for medical treatment and those responsible for vocational rehabilitation of disabled persons; Paragraph 41 also recommends that vocational rehabilitation services should be adapted to the particular needs and circumstances of each country and should be developed progressively.

162. Recommendation No. 168 addresses indirectly and from the standpoint of cooperation and coordination the question of the administrative organization needed to set up, develop and administer vocational rehabilitation infrastructures and services. Without referring directly to the organization of the activities that comprise vocational rehabilitation and employment of people with disabilities, Convention No. 159 refers in Article 5 to the measures to be taken to promote cooperation and coordination between the public and private bodies engaged in vocational rehabilitation. This provision recalls that emphasis should be laid on efforts to set up machinery for cooperation and coordination between the authorities and public and private bodies engaged in vocational rehabilitation. The Committee points out that unlike Recommendation No. 99, the Convention does not provide that Members should take all the necessary measures to achieve cooperation and coordination, but requires them to promote cooperation and coordination between the public and private bodies concerned. The Committee wishes to draw the attention of Members to the content of Paragraph 6 of Recommendation No. 168, which specifies that health care systems and other bodies responsible for medical and social rehabilitation should cooperate regularly with those responsible for vocational rehabilitation. It is to be noted that the cooperation provided for in the

---

(National Agency for Placement and Employment) and the AFPA (Association for Adult Vocational Training); in *Spain*, the regions play a decisive role in the implementation of vocational rehabilitation measures.

[65] For example, *Australia, Belgium, Canada, Switzerland, United States.*

Recommendation focuses on the interdependence between the disciplines covered by the concept of vocational rehabilitation and the bodies involved in it, rather than distinguishing between public and private bodies. The Committee's examination of the different forms of organization of vocational rehabilitation services in the countries surveyed reveals that these services are provided either by mixed bodies or by the voluntary sector and associations.

163. Recommendation No. 168 emphasizes the need to enable employers' and workers' organizations, together with disabled persons and their organizations, to contribute actively to the development of vocational rehabilitation services.[66] This is put into practice in many countries, with tangible results.[67]

164. The Recommendation also invites employers' and workers' organizations to adopt a policy for the promotion of training and suitable employment of disabled persons on an equal footing with other workers[68] and advocates that, together with employers' and workers' organizations, disabled persons and their organizations should be able to propose legislation in this field.[69]

165. Paragraph 33 recommends the inclusion of representatives of the above-mentioned organizations in the membership of the boards and committees of vocational rehabilitation and training centres used by disabled persons, which make decisions on policy and technical matters, with a view to ensuring that the vocational rehabilitation programmes correspond to the requirements of the various economic sectors.

166. Paragraph 34 of the Recommendation gives more specific guidance as to the provision of rehabilitation services. Employers' and workers' representatives in the undertaking are invited to cooperate with appropriate specialists with a view to the vocational rehabilitation and job reallocation of disabled persons employed by the undertaking, and to giving employment to other disabled persons. The purpose of this provision is to make workers in the enterprise aware of the situation of their disabled fellow workers and of jobseekers with disabilities, and to encourage employers to participate in the process of vocational rehabilitation, at least as regards their own employees with disabilities. The Recommendation also invites Members to encourage undertakings to establish or maintain their own vocational rehabilitation services, including sheltered employment, in cooperation

[66] Part VI: *Contribution of employers' and workers' organizations to the development of vocational rehabilitation services*, and Part VII: *Contribution of disabled persons and their organizations to the development of vocational rehabilitation services.*

[67] In *France*, for example, the Ministry of Labour enlists the assistance of consultative bodies such as the Higher Council for the Social and Occupational Reintegration of Disabled Workers, the Interministerial Committee for the Coordination of Rehabilitation and the National Advisory Council on People with Disabilities. In addition, a number of important functions have been delegated to the Fund for the Occupational Integration of Disabled Persons (AGEFIPH), which is administered by an association established under private law in which organizations of people with disabilities, workers and employers are represented.

[68] Para. 31.

[69] Para. 32.

with community-based and other rehabilitation services.[70] In this connection, the Committee refers to the measures recommended by Recommendation No. 99, which include financial, technical, medical or vocational assistance.[71]

167. The Committee notes that these and other measures designed for the same purpose have been implemented in many countries. They have proved to be effective: on the one hand, they have often increased the number and level of skills of disabled persons working in enterprises, and on the other, they have effectively encouraged employers to become more involved in the vocational rehabilitation of people with disabilities.[72]

IV. Use of existing vocational rehabilitation services for workers generally

168. The evolution of the concept of vocational rehabilitation has been marked by several stages. Each stage has been characterized by a form of administrative organization of the services involved. Initially, the public authorities had sole responsibility for vocational guidance, vocational training and placement services which for the most part were provided in specialized centres and institutions. Public vocational rehabilitation services still play a predominant role in a number of countries.[73] With the implementation of the provisions of Recommendation No. 99 which advocate the use of existing services for workers generally and seek to encourage enterprise cooperation with support from the public authorities, Members have gradually abandoned the preconceived idea that every aspect of the working life of disabled persons requires specific treatment, in favour of the provision of all vocational rehabilitation services (vocational guidance and training, placement and employment and related services), or some of them, through the facilities available to workers generally, with the necessary adaptations.[74] The training and availability of qualified staff in public and private services are the responsibility of the public authorities.[75]

---

[70] In *Sweden*, under s. 3 of Ch. 22 of the National Insurance Act of 1962, as amended, employers are systematically and legally responsible for the vocational rehabilitation of the disabled workers they employ.

[71] Para. 9.

[72] In *Japan*, the Japan Association for Employment of the Disabled, established recently (1994), has authority for providing employers with guidance and assistance, through incentives, in improving the working environment and conditions of people with disabilities.

[73] For example, in the *Republic of Korea*, vocational assessment, vocational training and placement services are provided to people with disabilities by a public enterprise, through 12 regional organizations.

[74] For example, in *Austria, Denmark, France, Germany, Portugal* and *Spain*, vocational guidance, placement and employment services are provided to people with disabilities through the facilities available to all workers.

[75] For example, in *Greece*, an increasing number of specialists practise in offices set up within the employment services; in *Luxembourg*, the employment offices for people with disabilities have

169. Paragraph 53 of Recommendation No. 150 contains guidelines on the principles which should be applied to ensure, as far as possible, the integration or reintegration of disabled persons into productive life in a normal working environment.[76] It recommends that persons who are disabled should have access to the vocational guidance and vocational training programmes provided for the general population and, where this is not desirable owing to the severity or the nature of the handicap and the special needs of specific groups of disabled persons, that specially adjusted programmes should be provided. This instrument, moreover, emphasizes the efforts which should be made to educate the general public, employers and workers, as well as medical and paramedical personnel and social workers on the need to provide disabled persons with vocational guidance and training enabling them to find employment suited to their needs, on the necessary adjustments in employment and on the desirability of special support for them in their employment. Indeed, its purpose is to quash the idea that people with disabilities should be prevented, *ipso facto*, from engaging in certain forms of employment or be confined to performing a small number of activities. Types and degrees of disability may be very diverse; and there should be no question of treating the heterogeneous population consisting of people with disabilities in the same manner, and without distinction, in regard to questions concerning their access to the world of work and advancement in employment. This is why great care should be taken in the vocational guidance and training services, for the majority of people with disabilities, in the framework of services available for all, to ensure that, as far as possible, the potential of each individual is realized in regard to his or her capacities and talents and in keeping with the interests of the national economy.

170. The Committee has noted a growing tendency in a number of countries for responsibility in this sphere to shift from the State to services operated by the private and voluntary sectors.[77] It observes that there are still a number of large

---

been dismantled and the ordinary employment services have been provided with specialists to meet the needs of people with disabilities.

[76] Human Resources Development Recommendation, 1975 (No. 150).

[77] In *China*, the Chinese Disabled Persons' Federation provides vocational rehabilitation services throughout the national territory; in *Japan*, vocational rehabilitation services are provided by public centres open to everyone or special centres set up specifically for the purpose at the national and local levels; however, a 1994 amendment of the legislation respecting the promotion of employment of disabled persons created the Japan Association for the Employment of the Disabled, whose members include organizations of employers offering services to promote the employment of people with disabilities, and will have responsibility for administering general rehabilitation services. The Association's functions will include setting up and administering local and regional vocational training centres; in the *Netherlands*, a new institutional organization is being set up as part of the partnership policy in which employers' and workers' organizations play a dominant role; the Government of *Singapore* states that it has transferred responsibility for supplying vocational assessment, placement and follow-up for people with disabilities to a voluntary organization; in *Spain*, Royal Decree No. 735/95 authorizes non-profit-making private agencies, in cooperation with the National Placement Institution, to provide vocational rehabilitation services with a view to integrating people with disabilities in the labour market.

networks of private and public specialized vocational rehabilitation centres, particularly in countries where the method of determining a person's disability status is decisive for the grant of social security benefits.[78]

V. Training and availability of rehabilitation counsellors and qualified staff

171. Under Article 9 of Convention No. 159, "each Member shall aim at ensuring the training and availability of rehabilitation counsellors and other suitably qualified staff responsible for the vocational guidance, vocational training, placement and employment of disabled persons".

172. Recommendation No. 168 provides that "in addition to professionally trained rehabilitation counsellors and specialists, all other persons who are involved in the vocational rehabilitation of disabled persons and the development of employment opportunities should be given training or orientation in rehabilitation issues".[79] In Paragraphs 23 to 30, the relevant components of the training such staff need in order to meet the specific needs of people with disabilities are listed. These include training staff to have an adequate knowledge of disabilities "as well as a knowledge of the support services available to facilitate a disabled person's integration into active economic and social life".[80] The Recommendation also provides that the training, qualifications, remuneration and career opportunities of staff engaged in the vocational rehabilitation and training of disabled persons should be comparable to those of persons engaged in general vocational training who have similar duties and responsibilities.[81] The use of aides and auxiliaries should be resorted to only wherever sufficient numbers of fully trained rehabilitation staff are not available, as a temporary measure, and, wherever possible, provision should be made for further training of such personnel in order to integrate them fully into the trained staff.[82] Lastly, it is recommended that member States consult disabled persons' representative organizations in the development, provision and evaluation of training programmes for vocational rehabilitation staff.[83]

---

[78] For example, in *Belgium*; in *China*, there are public agencies which provide vocational assessment and training services; in *France*, according to information provided by the Government, in 1994 there were 84 vocational rehabilitation centres, 75 of which were private, and nine occupational rehabilitation schools administered by the National War Veterans' Office; in *Peru*, a selective placement service has been set up under the authority of the Ministry of Labour; in *Switzerland*, a network of vocational guidance and placement offices for people with disabilities operates in conjunction with the employment offices.

[79] Para. 22.

[80] Para. 23.

[81] Para. 24.

[82] Para. 26.

[83] Para. 30.

173. When the instruments under consideration were being drafted, there was wide recognition among governments of the need to include provisions concerning specialized high-quality training for vocational rehabilitation counsellors and specialists. The Committee notes, however, that too few governments' reports have provided full and detailed information on the subject for it to assess to what extent the provisions concerning the training and availability of counsellors and qualified staff are applied.[84] In this connection, the Committee recalls that it already noted, in the context of its General Survey on human resources development, that certain governments stated that special efforts had been made to train specialized staff.[85]

174. Analysis of the various national situations shows that many countries have organized specialized courses, chiefly in universities, with the aim of training qualified specialists. One of the prerequisites for providing adequate and effective rehabilitation is that the persons responsible for conducting activities in this sphere must possess extensive and very specific knowledge;[86] it is therefore essential that they receive in-depth and comprehensive training.[87] Institutions specializing in vocational rehabilitation, as well as the employment services, provide initial and further training to their staff, either alongside specialized university courses or separately, by means of in-service courses or in the form of seminars or practical training courses.[88]

---

[84] For example, *Jordan's* report refers to Arab Labour Convention No. 17 concerning vocational rehabilitation and employment of disabled persons (s. 10), which provides that each State shall take measures to prepare and train the technical staff and qualified personnel responsible for disabled persons, on a scientific basis; it provides no information on how far this text is applied in practice.

[85] *Algeria, Australia, Norway.*

[86] The Government of *Uganda* states that disabled persons trained in vocational rehabilitation centres are employed as assistant trainers.

[87] For example, in *Belgium*, a vocational guidance diploma is required in order to practise as a counsellor; in *China*, faculties of medicine and other advanced-education establishments provide specialization courses to qualify as rehabilitation professionals; in *Finland*, universities and colleges dispense high-level training courses; in *Germany*, the academic training of social workers and special education teachers generally includes aspects of the training and employment of people with disabilities; the Government of *Hungary* reports that a training programme for rehabilitation and employment experts has been set up in cooperation with Austria; in *Italy*, training courses for specialized social workers and paramedical staff have been introduced in public and private universities and institutions; in *Japan*, academic structures are used to train rehabilitation staff; for example, in 1982, a Welfare Engineering Division was set up in the Polytechnic University for instructors and other rehabilitation staff; in *New Zealand*, there are special diplomas and training courses in rehabilitation; in *Poland*, the National Rehabilitation Fund, in cooperation with the Plenipotentiary for the Disabled and an educational establishment has set up a College of Special Andragogics to train staff working with disabled adults, with special attention given to vocational and social rehabilitation. The Vocational Information and Guidance Centre is currently promoting, with support from the National Labour Office, university diplomas specializing in vocational guidance for people with disabilities; in *Singapore*, the university has a long record of training social workers, while the polytechnic has a tradition of training occupational therapists.

175. The provision of vocational rehabilitation services involves an increasing number of actors such as public institutions as well as voluntary associations and private bodies or institutions. In this respect, the Committee considers that adequate training should be provided for all staff working with people with disabilities; the training could consist, for example, of part-time or sandwich courses providing a sound knowledge of the problems faced by disabled persons. One means of making qualified and competent staff available to people with disabilities is to establish procedures whereby rehabilitation institutions are accredited on the basis of the quality and regular updating of staff training.[89] It is all the more essential to update staff skills regularly in view of the multidisciplinary nature of the rehabilitation process, which includes vocational assessment and guidance, an introduction to and preparation for work, skills upgrading, vocational training, adjustments to the work environment, workplace assessment, placement, and support and follow-up in employment. It is worth noting that some countries provide for coordination of the work of the various specialists involved.[90]

---

[88] For example, in *China*, the State provides technical training for staff working in the field of rehabilitation; in *Cyprus*, specialized rehabilitation staff are essentially trained abroad owing to the lack of appropriate educational and training institutions in the country; activities held in Cyprus in this field include short continuous and in-service training courses, workshops or seminars; in *Finland*, the authorities responsible for vocational rehabilitation, vocational training and employment of people with disabilities ensure that staff undergo continuous further training to enable them not only to carry out their rehabilitation work but also to cooperate with other authorities or institutions; the training of labour administration staff includes special sessions on the provision of services to people with disabilities and on vocational rehabilitation methodology; in *Germany*, rehabilitation bodies are responsible for providing the specialized staff they recruit with training and regular advanced training for the performance of their tasks. In addition, seminars are held centrally for specialized rehabilitation staff employed either in the establishments responsible for rehabilitation or at rehabilitation centres and establishments; in *Singapore*, training institutions organize courses and seminars for people working in the field of rehabilitation; in *Slovenia*, the National Employment Office organizes a three-to-four day seminar once a year for rehabilitation counsellors who are specialized in the field of rehabilitation and employment of people with disabilities; in *Sweden*, the social insurance offices have implemented training measures for rehabilitation staff; in *Uganda*, training of staff working in vocational rehabilitation services as well as training for teachers for disabled persons are provided by the State with the assistance of the Norwegian Association for the Disabled.

[89] For example, in *Belgium*, rehabilitation institutions are required by law to supplement initial training by weekly interdisciplinary meetings organized within the institution and periodical participation in seminars or further training courses; accreditation is subject to this; in *Singapore*, the Government and the National Social Service Council supervise the recruitment of staff by voluntary organizations.

[90] For example, in *Spain*, as regards adequate staff to supply care and the various services needed by people with disabilities, Act No. 13/82 provides that a number of specialists work together in multidisciplinary teams; in the *United Kingdom*, considerable efforts have been made in recent years to ensure greater continuity between medical and occupational rehabilitation, reflected in closer cooperation between the medical, educational, vocational and social services for people with disabilities.

176. In some developing countries that have set up community-based rehabilitation models (CBR), volunteers with little or no training are enlisted and trained on the job. Although some countries that have introduced CBR programmes provide awareness training to give these workers some knowledge of the specific needs of people with disabilities,[91] there is still progress to be made in improving their skills. In this respect, the Committee would emphasize that the specialized environment should constitute an important staff training resource by providing essential technical support to rehabilitation in a normal setting.

177. The ILO encourages the development of vocational training programmes for vocational rehabilitation staff and provides technical assistance for their implementation, especially at regional level. Such programmes have been designed and implemented in Africa, Latin America and the Caribbean region.[92]

VI. Sheltered employment

178. The Committee observes that sheltered employment is developing in most countries with the support of the public authorities.[93] Sheltered employment offers an increasing number of jobs to people with disabilities who wish to work. Paragraphs 32 and 33 of Recommendation No. 99 recommend the creation and development of sheltered training and employment facilities, in cooperation, as appropriate, with private organizations for certain particularly vulnerable categories of people with disabilities with, whenever possible, transfer to open employment.

---

[91] For example, in *Benin*, information and awareness seminars have been organized for trainers in accordance with the holistic approach of CBR in the normal environment and volunteers are trained in CBR; in *Côte d'Ivoire*, the National Social Workers' Training Institute has organized a training module on CBR; in *Ghana*, there is a network of rehabilitation centres under a CBR programme; *Uganda* has trained 270 Community Development Assistants under a CBR programme; in addition, a special diploma in community-based rehabilitation (Post Diploma Certificate) has been instituted with the University of Makerere.

[92] In the late 1980s, the African Rehabilitation Institute received ILO technical assistance to train vocational rehabilitation staff in southern African countries. This training included courses for social workers, ranging from basic to specialist training, as well as for placement staff and rural workers. Five Latin American countries *(Bolivia, Brazil, Colombia, Mexico* and *Uruguay)* have formulated a training programme aimed at integrating people with disabilities into society. This programme is being implemented in vocational training centres in the region. A programme to train vocational rehabilitation professionals of seven countries in the Caribbean region *(Bahamas, Barbados, Dominica, Guyana, Jamaica, St. Lucia* and *Trinidad and Tobago)* is being implemented in the National Centre for Disabled Persons, with the assistance of UNDP and the ILO. This training is intended for staff of vocational training institutions and is aimed at the adoption of integrated training policies guaranteeing equality of opportunities for people with disabilities. In *Angola*, the ILO provides support to training of vocational rehabilitation staff under a technical assistance project. The international Training Centre of the ILO in Turin has included rehabilitation training components in its courses.

[93] In the *Czech Republic*, sheltered workshops receive a subsidy of 20,000 Czech crowns per disabled worker; in *Peru*, Presidential Decree No. 037-88-TR of 1988 provides that promotional enterprises for people with disabilities, in which at least 65 per cent of employees are disabled, shall be granted tax exemptions and preferential treatment by public sector enterprises in marketing their products; in the *Russian Federation*, Presidential Decree No. 394 of 25 Mar. 1993 establishes a system of credits and subsidies for setting up production workshops employing people with disabilities; in *Slovakia*, the District Labour Office subsidizes employers' operational costs up to the amount of 20,000 Slovak crowns per disabled worker employed in sheltered workshops; in *Sweden*, the Ordinance of 1985 respecting sheltered employment in the public sector provides for a subsidy of up to 100 per cent of wages paid to disabled workers.

179. Under Paragraph 11 of Recommendation No. 168, the measures that should be taken to promote employment opportunities for disabled persons which conform to the employment and salary standards applicable to workers generally should include appropriate government support for the establishment of various types of sheltered employment for disabled persons for whom access to open employment is not practicable (subparagraph (b)), and encouragement of cooperation between sheltered and production workshops on organization and management questions so as to improve the employment situation of their disabled workers and, wherever possible, to help prepare them for employment under normal conditions (subparagraph (c)).

180. Sheltered employment is sometimes provided in a single type of structure, as is the case in most countries of Northern Europe.[94] In other countries, on the contrary, there is a variety of institutions for this purpose.[95] In the latter, a distinction is drawn between structures geared mainly to production and those with a mainly therapeutic purpose, which come under different ministries (labour or health) and different legal frameworks, in particular as regards labour law. Mentally disabled people generally attend therapeutic structures. Sheltered employment structures vary in legal status: they may be public (at national, local or regional level) or private, most often in the form of a non-profit-making association, or sponsored by non-governmental organizations or associations of people with disabilities or their family members.

181. The Committee notes that these structures have substantially increased in number in the past decade.[96] There is a particularly wide variation in sheltered workshop capacity as a percentage of the total population.[97] Most of the people working in sheltered units are disabled.[98] The number of men employed consistently exceeds that of women: the average proportion of men is 60 or even 70 per cent. There are few age-related statistics on workers with disabilities, but the question of ageing of the population is sometimes raised in countries with the longest tradition of sheltered employment and the largest sheltered workforce. Likewise, there are few precise studies on the type of disability of workers in sheltered employment. The Committee has observed a very wide variety of national situations with respect to this point.[99]

---

[94] For example, in *Sweden*, all the units in this sector are grouped in a single institution (Samhall).

[95] For example, in *Argentina* (sheltered therapeutic workshops and sheltered production workshops), in *Australia* (where sheltered workshops exist side by side with the "enclave" system, in which workers with disabilities work in ordinary enterprises), in *France* (sheltered workshops and work help centres) and in *Spain* (special employment centres and occupational centres).

[96] For example, in *Canada* (Quebec Province), the number of Adapted Work Centres began to increase last year after remaining stable from 1982 to 1996; in a small country like *Costa Rica*, over 60 per cent of existing sheltered workshops were set up in the last decade; in *France*, the Work Help Centres have increased their capacity by 20,000 places (an increase of 33 per cent) and sheltered workshops by 5,000 (an increase of 80 per cent) in ten years; in *India*, the decision has been taken to set up an employment fund for people with disabilities which should have an impact on sheltered employment; in *Spain*, the number of places in sheltered workshops *(centros especiales de empleo)* has more than doubled since 1987, to 14,000 today; whereas in *Sweden*, the Samhall enterprise has offered roughly the same number of places for disabled workers for the past ten years (27,000); in the *United States*, over the past five years the workers in the association grouping

182. The proportion of disabled persons moving from a sheltered to a normal work setting is still very low, ranging between 0 and 2 per cent per year in most countries. The situation in *Sweden* appears to be exceptional, with a rate of over 3 per cent. These low figures partly explain the high demand for places in sheltered employment, the growth of the sector and the uncertainty attendant upon the number of people employed in this sector. The Committee draws attention to the emphasis placed by the relevant instruments on the fact that sheltered employment should provide opportunities for an increasing number of people with disabilities to transfer to open employment.

183. The Committee would also draw the attention of governments to the need to ensure respect for the needs and rights of workers in sheltered employment. It has noted a wide disparity between the situation of workers employed without a contract and outside any legal framework, and that of workers who are considered as "ordinary workers" and sometimes achieve a high rate of unionization.

Section III. Obligations of the State with regard to employment

184. Like the Employment Policy Convention, 1964 (No. 122), whose scope, in principle, covers all workers, Convention No. 159 does not require States to provide suitable employment to all people with disabilities. Both Conventions place the emphasis on the need to formulate a policy to promote freely chosen employment and to define the necessary measures to achieve the objectives, i.e.

together workshops for severely disabled persons (NISH), only a part of the sheltered employment sector, have increased from 15,000 to almost 26,000.

[97] Within the European Union, the proportion varies from 1 to 12 per thousand.

[98] Depending on the country, the percentage of non-disabled employees varies from 5 to 25 per cent, and most of them are supervisors. *Poland* is exceptional in this respect, with 122,000 disabled workers out of an estimated total sheltered workforce of 200,000; it should be noted that an enterprise can be designated as a sheltered establishment provided that 40 per cent of its employees are disabled (or even 30 per cent, if they are blind).

[99] For example, in *Argentina* 90 per cent of the sheltered workforce are mentally disabled, while the equivalent figures are only 16 per cent for the *United Kingdom* and 3 per cent in *Norway*. Conversely, the percentage of workers with physical disabilities is 50 per cent in *Sweden* and 7 per cent in *France* and *Australia*. An average of between 30 and 90 disabled persons work in each sheltered unit.

full, productive employment in the case of Convention No. 122, and occupational integration or reintegration in the case of Convention No. 159.

I. Promotion of employment opportunities for disabled persons in the open labour market

185. Under Article 3 of Convention No. 159, the national policy on vocational rehabilitation and employment of disabled persons shall aim at promoting employment opportunities for disabled persons in the open labour market.

186. Article 4 lays down the principle of equality of opportunity as the basis for the national policy and emphasizes that "special positive measures aimed at effective equality of opportunity and treatment between disabled workers and other workers shall not be regarded as discriminating against other workers".

187. Recommendation No. 168 lays down useful guidelines enabling both those States which have ratified the Convention and those which have not to give effect to the relevant provisions of the Convention. Paragraph 11 of the Recommendation lists a number of measures supplementing those laid down in Recommendation No. 99, with a view to increasing employment opportunities for people with disabilities on the open labour market while seeking means of combating unfounded prejudice on the part of employers.[100]

188. The Committee emphasizes the importance of these provisions, not only as regards the objective of equalization of opportunities for people with disabilities, but also in view of the future prospect of fewer workers paying taxes and contributing to social security schemes and other social assistance programmes, at a time when the population of benefit recipients will be constantly increasing,[101] a situation which will jeopardize the sustainability of social security schemes for the foreseeable future.[102] The age pyramid is changing as life expectancy increases in both developing and industrialized countries as health and social services improve. Consequently, social security schemes will have to cope with a growing volume of benefits to meet the needs of an ageing population, as a result of the increasing likelihood of debilitating illness and declining functional capacity.

---

[100] For example, in the *Czech Republic, Japan, San Marino* and *Slovenia*. In *Germany*, employers are requested to arrange the workplace in such a way as to ensure that they can, in principle, employ disabled persons as at least 6 per cent of their workforce as required by law. In *Portugal*, s. 31 of Regulation No. 728-A/92 lays down measures concerning technical aids, adaptation of workplaces, elimination of architectural barriers and the design of appropriate new methods of achieving integration in the open labour market. In the *United Kingdom*, the Disability Discrimination Act, 1995, requires that employers undertake reasonable adjustments at the workplace in order to avoid placing disabled workers at a disadvantage. In *Uruguay*, s. 16 of Act No. 16.095 provides that the State shall adopt appropriate measures to make workplaces and other public places accessible to disabled workers.

[101] ILO: *Older workers: Work and retirement*, ILC, 65th Session, 1979, Report VI(1), Geneva.

[102] B. Rehnberg: *Rehabilitation in relation to labour market policy*, ILO European Symposium on Work of the Disabled: Vocational Rehabilitation and Employment Creation (Stockholm, 1980), p. 145.

189. During the two decades following its adoption, substantial progress was registered in the application of the provisions of Recommendation No. 99 relating to the employment of people with disabilities, but the fact remains that they are hit hardest by any economic and social crisis. The Committee has observed that a significant number of developing countries cite economic and social obstacles, in particular the unemployment situation affecting the non-disabled population, in justification of the fact that they have not formulated even the most basic national policy or measures to promote the employment of people with disabilities.

190. A large number of countries have drawn inspiration from the provisions of Recommendation No. 99 in their efforts to mitigate the underemployment of people with disabilities. The measures carried out by various countries with a view to protecting people with disabilities against discrimination were cited and analysed during the preparatory work on Convention No. 159 and Recommendation No. 168.[103] One of these measures, quota schemes obliging employers to hire people with disabilities as a specified percentage of their workforce, has been and is still applied in many countries. Most often, failure to fulfil the quota is penalized by fines which may be used either to finance various activities to prepare disabled people for better access to employment or enable them to retain their jobs in the open labour market or in sheltered employment, or to provide employers with financial incentives and subsidies to offset the real or estimated costs of employing a disabled person.[104] Some countries offer employers alternatives to the quota scheme: for example, they may conclude subcontracts with sheltered workshops[105] or purchase products from them.[106] The quotas employers are required to meet vary from country to country,[107] as does the size of the enterprises covered by the relevant legislation[108] and the amount of the fine applied.[109] In the *Netherlands*,[110] employers' and workers' organizations have been given responsibility for improving the opportunities for people with disabilities to become integrated in the labour market, through collective agreements. Some countries have adopted legislation providing for the compulsory placement of people with disabilities.[111]

---

[103] ILO: *Vocational rehabilitation*, ILC, 68th Session, Report VI(1), 1982, Geneva.

[104] For example, *Austria, Azerbaijan, France, Germany, Hungary, Japan, Morocco, Pakistan, Poland, Romania, Russian Federation, Slovakia, Thailand, Tunisia* and *Viet Nam*.

[105] For example, in *France*.

[106] For example, in *Germany*.

[107] For example, 0.5 per cent in *Thailand*, 1 per cent in *Pakistan*, 1.6 per cent in *Japan*, 2 per cent in *Spain*, 3 per cent in *Romania* and *Viet Nam* (except in the energy, metal and chemical industries, where the quota is 2 per cent), 4 per cent in *Austria*, 5 per cent in *Hungary* and *Greece*, 6 per cent in *France, Germany* and *Poland*.

191. Although the various measures have produced encouraging results, they have also highlighted the shortcomings of the systems adopted, including those in industrialized countries, in particular during periods of economic recession. Even two decades after Recommendation No. 99 came into force, and despite the fact that people with disabilities have proved that they have a comparable capacity for work to that of non-disabled workers, prejudice persists and it is not easy for a disabled person to be hired. The State must still make an effort to persuade employers to overcome their reluctance to hire people with disabilities.

192. It is now widely recognized that in order to deal adequately with the issue of employment of people with disabilities, it must be mainstreamed into national employment policies; accordingly, efforts should be directed at designing and organizing easier access to the open labour market for people with disabilities. Special forms of work organization such as sheltered workshops, the enclave system and subsidized cooperatives should be limited to persons whose disability is too severe for them to be integrated in an ordinary work setting.

---

[108] For example, in *Brazil*, under Act No. 8112 of 11 December 1990, disabled persons have the right to enter competitions for posts in the federal public service which are compatible with their disability. Twenty per cent of vacant posts open to competition are reserved for them. In addition, under Act No. 8213 of 1991, 2 to 5 per cent of jobs are reserved for them in enterprises employing more than 100 people; in *Germany*, public and private sector employers with at least 16 employees are subject to the quota requirement; in *Japan*, establishments with at least 63 employees (in the private sector only employers with more than 300 employees may be penalized); at least 100 in *Pakistan*; at least 250 in *Romania*; in *Spain*, public sector enterprises and employers with more than 50 employees; and at least 200 in *Thailand*.

[109] For example, in *Hungary* the fine amounts to the equivalent of US$56 per month; US$120 per month in *Germany*; and US$400 per month in *Japan*; the public office for employment security may order companies that have not fulfilled their quotas to draw up an employment plan for disabled persons. The purpose of this plan is to define a strategy through which the company will endeavour to meet the quotas within three years. In *Mauritius*, employers who fail to meet the quota may be required to pay a contribution to the Training and Employment of Disabled Persons Board.

[110] Act of 1 July 1986 respecting the employment of disabled workers.

[111] For example, *Brazil, Greece, Italy* and *United Republic of Tanzania*. In *Greece*, in accordance with Act No. 1648 of 1986 which provides for the compulsory placement of disabled persons by Ministry of Labour Committees throughout the country, employment was found for 3,168 disabled persons in the private and public sectors between 1987 and 1992. *Italy* has a compulsory quota scheme in the form of placement of certain categories of disadvantaged groups considered as needing special protection in order for the right to work enshrined in the Constitution to be fully applied. Under Act No. 482 of 2 Apr. 1968, all enterprises or public administrations employing more than 35 persons must hire individuals from protected categories (people who are socially or otherwise disadvantaged, including those with disabilities) as 15 per cent of the total workforce. s. 19 of Act No. 104 of 5 Feb. 1992 extends this legislation to people with a mental disability. In the *United Republic of Tanzania*, under the Disabled Persons (Employment) Act, 1982, every employer covered by the quota system must give a job to persons who are registered as disabled.

193. The main objective of promoting employment opportunities for disabled persons on the open labour market is to provide the legal and organizational framework that will guarantee the right of people with disabilities to compete for jobs on an equal footing with other citizens. Generally, the machinery needed to allow disabled persons to obtain an income-generating activity can be envisaged and established only if financial support is provided for the purpose. The financial assistance may be direct or indirect. Such measures are provided in a number of countries.[112]

194. In particular, the Committee will examine aspects of this framework geared to equalization of opportunities of people with disabilities in employment by enlisting employers' cooperation through financial incentives aimed at increasing disabled people's employment opportunities on the open labour market.

---

[112] In *Argentina*, financial assistance is granted to handicapped persons who are starting up an economic activity (Act No. 24.308 of 1994); in *Burkina Faso*, s. 7 of Act No. 86-005/CNR/PRES of 16 Jan. 1986 adopting social measures for disabled persons provides for a reduction in permit fees and other taxes applicable to disabled craftsmen on the basis of the extent of their disability; in addition, provision is made for covering the cost of training disabled persons for self-employment in the crafts and trades. The interest-free loans granted to disabled persons by the Support Fund created for this purpose have been affected by the financial difficulties encountered by the Fund as a result of the socio-economic situation of the country; in *Canada*, particularly in the Province of Alberta, the occupational rehabilitation programme for people with disabilities provides financial aid to residents who are suffering from a physical or mental disability and who need to acquire vocational training in order to increase their opportunities for finding work; in the *Czech Republic*, funds may be granted for the purpose of purchasing equipment in order to set up in an income-generating self-employment; in *Ecuador*, funds are allocated and various forms of financial assistance are provided for small enterprises and cooperatives of disabled workers; in *Estonia*, an Order of 9 Feb. 1995 on subsidies to employers provides aid for training disabled persons for self-employment, and is supplied by the Employment Office; in *Finland*, severely disabled entrepreneurs are exempt from value added tax (in 1995, 1,475 entrepreneurs benefited from this exemption) and assistance for self-employed disabled persons is allocated for a period of six to 15 months; in *Greece*, pursuant to Decision No. 34 166 of 28 Jan. 1993 of the Secretary General of the Ministry of Labour, a disabled person may receive a subsidy amounting to 600,000 drachmas to set up an enterprise in the manufacturing sector and 500,000 drachmas in the services and commerce sector; in *Lithuania*, assistance for self-employment is granted to disabled persons pursuant to Act No. 1-2044 of 28 Nov. 1991 on the social integration of disabled persons, in the form of loans on terms more favourable than market rates. In *New Zealand*, self-employment assistance is provided under the Self-Employment Grant Programme, and under the Accident Rehabilitation and Compensation Insurance Act, 1992, covering persons whose impairment is the result of an accident; in *Poland*, unemployed persons with disabilities who wish to set up an enterprise may receive a loan amounting to 25 months' average wages with the possibility of a 50 per cent reduction of the debt if the activity continues for at least two years; in *Portugal*, assistance to disabled persons for self-employment is provided under Legislative Decree No. 247/89 of 5 Aug. 1989 and Regulatory Order No. 99/90; in *Saudi Arabia*, Order No. 7 of 18.01.1402 (Hegira) amending Order No. 219 of 27.11.1400 (Hegira) increased to 50,000 rials the assistance to handicapped persons for independent employment; in *Sudan*, the Act of 1984 on the welfare and rehabilitation of disabled persons provides that, on the basis of a recommendation from the National Council for the Welfare and Rehabilitation of Disabled Persons, once this body has been established, disabled persons will be able to benefit from fiscal exemption measures when purchasing equipment for their work as well as exemption from income tax.

195. The Committee has observed a widespread tendency to implement measures such as the following: subsidies for the adaptation of workplaces and equipment, tools and work clothes; participation in wages and social security contributions; and exemption from taxes or other internal charges imposed at the time of importation of articles and materials required by employers and disabled persons and on aids and devices required to assist disabled persons in securing and retaining employment.

II. Subsidies for adaptations to workplaces

196. Among appropriate measures to create employment opportunities on the open labour market, Paragraph 11(a) of Recommendation No. 168 refers to financial incentives to employers to encourage them to make reasonable adaptations to workplaces, job design, tools, machinery and work organization to facilitate disabled persons' training and employment. Financial assistance for the adaptation of workplaces may also include the award of credits or tax reductions to employers.[113]

---

[113] For example, in ***Belgium***, the Walloon Community Agency for the Integration of People with Disabilities provides for subsidies towards purchasing, building and adapting infrastructure and for equipment for people with disabilities. The Flemish Community reimburses employers' expenses entailed in making a workplace accessible to a disabled worker. In *Canada*, the People with Disabilities Office of Quebec grants subsidies to employers to adapt workplaces for people with disabilities (s. 62 of the Act of 1 Sep. 1994 guaranteeing the exercise of rights of people with disabilities). In *France*, the Fund for the Occupational Integration of People with Disabilities pays for the adaptation of training and workplaces. In *Germany*, under ss. 15 and 16 of the Severely Disabled Persons Act, under the regulations concerning an equalization tax for severely disabled persons, employers may receive through the regional funds of the Central Agencies for Disabled Persons (***Hauptfürsorgestellen***) or on their behalf from local funds and in close cooperation with the Federal Labour Institution, credits or subsidies up to the total amount of expenses incurred in adapting a workplace and/or purchasing special equipment. Provision is also made for financial assistance to train a disabled person in the use of the adapted equipment. These resources are financed out of fines paid by employers who fail to meet the obligation to hire disabled persons as 6 per cent of their workforce. If, as a result of his or her disability, a disabled person needs a vehicle to go to work, provision is made for assistance in the purchase of an adapted vehicle or towards obtaining a driver's licence. In *Greece*, s. 5, para. II, of Act No. 1648 of 1986 provides that the local offices of the Manpower Employment Organization may pay up to 180,000 drachmas for the adaptation of a workplace. In ***Ireland***, people with disabilities who are employed or work on their own account may obtain special equipment on loan to help them perform their work. In ***New Zealand***, subsidies of up to $10,000 may be granted to employers by the Workplace Adjustment Subsidy Fund towards expenses incurred in adapting a workplace or providing adapted equipment with a view to employing a disabled person. In ***Spain***, subsidies of up to 150,000 pesetas are paid for the adaptation of a workplace. In the ***United States***, state agencies responsible for occupational reintegration may finance all or part of the expenses incurred in providing technical aids or other arrangements for eligible individuals. In the ***United Kingdom (Jersey*** and ***Isle of Man)***, financial assistance for adapting workplaces and facilities is provided.

While this practice is more common in industrialized countries, it is also provided for in the legislation of some Latin American countries.[114]

197. In many cases minor adjustments have often proved sufficient to enable most people with disabilities to demonstrate their capacity to perform a job as efficiently as a non-disabled person.[115] A recent ILO publication gives examples of work tools used in highly labour-intensive work in agriculture and construction in African and Asian countries which can be adapted to the needs and abilities of people with disabilities.[116] Such attention to the specific needs of people with disabilities is an essential prerequisite to enable them to work on the open labour market. The examples given in this publication may suggest further possibilities, particularly in rural and remote areas of developing countries, of enabling people with disabilities to participate in the productive life of their community.

III. Hiring subsidies

198. This type of measure consists of providing financial assistance to encourage employers to hire people with disabilities. It tends to dispel certain concerns that employers might have in regard to productivity losses due to the disability; it is granted at the employer's request and covers a varying portion of the disabled worker's wage during a specified period. The amount of financial support is in proportion to the nature and degree of the disability. The Committee observes that in many countries subsidies are paid to supplement wages; they may be paid either to the employer or directly to the disabled workers.[117]

---

[114] In *Argentina*, employers who hire disabled workers as more than 4 per cent of their workforce and who must adapt workplaces to overcome architectural barriers are entitled to a special credit for this purpose. In *Chile*, under ss. 34, 35 and 38 of Ch. III of Act No. 19.284, when the State finances all or part of vocational training programmes, it shall provide the necessary resources to make such training fully accessible to people with disabilities. In *Costa Rica*, under s. 26 of Act No. 7600 of 1995 respecting equality of opportunity for people with disabilities, employers may receive technical assistance to adapt workplaces to the needs of workers with disabilities. These adjustments may include alterations of the physical environment and the provision of technical aids or support services. Under s. 27 of the same Act, employers shall provide installations enabling all workers, without any discrimination, to work and advance in employment. In *El Salvador*, different forms of financial assistance are provided to adapt the workplace and overcome architectural barriers; these consist of tax rebates and tax credits.

[115] A study carried out in the *United States* showed that over half of the adjustments undertaken by employers cost practically nothing, while another 15 per cent of these adjustments cost less than $500 (New York State School of Industrial and Labour Relations, Cornell University: *Reasonable accommodation under the Americans with Disabilities Act, 1994*).

[116] David Dilli: *Handbook of accessibility and tool adaptations for disabled workers in post-conflict and developing countries*, ILO, Geneva, 1997.

[117] For example, in *Argentina*, the Promotion of Private Sector Employment Programme includes women and young people with disabilities. The National Employment Fund, which is the institution responsible for this programme, pays their wages and social security contributions for the first six months of their contract. In *Australia*, the Workplace Relations Act, 1996, provides for a Supported Wage System which is conditional upon reasonable adaptations to the workplace. This Commonwealth legislation is supplemented by provincial legislation on wage subsidies. In *Austria*,

199. Other countries have opted for another type of financial incentive to encourage employers and enterprises that hire people with disabilities, which is not directly linked to wages and may be paid in the form of a lump sum on which an upper limit is fixed or a fixed monthly subsidy paid over a period ranging from several months to several years.[118] The Committee has observed that many countries have provisions offering different forms of financial assistance intended to encourage employers to offer jobs either to disabled people in general,[119] or to certain categories of people with disabilities.[120] The Committee notes that in some countries job subsidies are the only incentive paid by the authorities to promote the

---

the accident insurance fund is empowered to pay an insured person with a disability who has taken up a job for which he or she can only be paid full remuneration once the necessary skills have been acquired, benefit of up to four years of full wages. The employer may receive a subsidy during the same period. Similar provisions cover disabled veterans. In ***Belgium***, the law provides for up to three years of wage subsidies for disabled workers to allow for a period during which the employer and the disabled worker can adjust to each other. A compensation subsidy is paid towards the disabled workers' wages and social security contributions in order to compensate for any loss of productivity that hiring a disabled person may entail for the employer (Collective Agreement No. 26). In ***Finland***, employers may receive a subsidy for up to two years if they hire a disabled jobseeker who could not be placed by the employment services or other promotion measures, including vocational rehabilitation. The disabled worker whose job is subsidized has a contract of employment with the employer and receives a wage. The job subsidy covers all of the wage costs (s. 3 of the Employment Ordinance of 1987); the ordinary job subsidy is equal to the maximum daily benefit paid under the Act respecting income maintenance for unemployed persons. Under the Employment Act of 1 Jan. 1988, however, this measure does not apply to persons who, because of illness, disability or injuries, draw a full disability pension or early retirement pension on account of their inability to take up employment, under the Sickness Insurance Act, the National Pensions Act, the unemployment benefit legislation or the Traffic Accident Insurance Act (even if recipients of disability benefit are not involved). In ***Greece***, employers may receive a subsidy of 2,900 drachmas per day for one year (s. 5(1) of Act No. 1648 of 1986). In ***Portugal***, wage subsidies are granted to enterprises employing disabled persons (Decree No. 275/89, Regulation No. 99/90). In ***Sweden***, a job subsidy is intended to cover a portion of the wage which varies from 80 to 100 per cent of the reference wage for a period which may exceed four years (Wage Subsidies Ordinance of 1991).

[118] For example, in ***Austria***, the Accident Insurance Fund is empowered to pay an employer who hires an insured person with a disability a subsidy for up to four years. There are similar provisions covering disabled veterans. In ***Estonia*** (Government Regulations No. 62 of 9 Feb. 1995). In ***Finland***, Decree of Feb. 1993 respecting employment, which includes provisions on subsidies for the employment of people with disabilities. Wage subsidies may be granted to employers employing people with disabilities who have been unemployed for at least five out of the last six months. ***Ireland*** has a mixed subsidy system including the Employment Support Scheme, the Employment Incentive Scheme and the Employment Subsidy Scheme.

[119] For example, ***Belgium, El Salvador, France, Russian Federation, Uruguay***. In ***Bulgaria*** and ***Hungary*** subsidies may be paid to enterprises employing more disabled persons than the statutory quota.

[120] For example, in ***Brazil***, provision is made for specific incentives for enterprises employing workers whose physical or mental disability substantially reduces productivity. In ***Chile***, a subsidy is paid to private sector enterprises employing people with visual or speech impairments.

employment of people with disabilities;[121] in other countries it is one of several incentives offered.[122]

IV. Tax incentives

200. These consist in reducing the tax burden on employers or even exempting them entirely from certain taxes and charges applied to enterprises in general; they are based on the number of disabled people employed.[123] They apply, inter alia, to the contributions to funds for the employment of people with disabilities[124] and turnover tax.

---

[121] For example, in *Estonia*, Government Regulation No. 62 of 2 Sep. 1995 on labour market subsidies for employers provides for a monthly subsidy for one year once the employer has already paid the wage.

[122] For example, in *Bulgaria*, the Act of 1995 on the protection, rehabilitation and integration of disabled persons provides for support in general for the employment of people with disabilities and, in particular, for those employed in excess of the quota imposed on employers; in *Finland*, Employment Decree No. 130/1993, as amended, provides for a wage subsidy for up to two years for the employment of people with disabilities, which is increased if the employment is accompanied by vocational training; the Government of *New Zealand* refers to a Job Support Programme.

[123] For example: *Argentina, China, Peru, Slovakia, Slovenia, Spain, Tajikistan, Thailand, Tunisia* and *Zambia*. In *Congo*, Act No. 009 of 22 Apr. 1992 respecting the status, protection and promotion of people with disabilities provides for tax rebates and exemptions for enterprises employing disabled workers; in the *Czech Republic*, Act No. 586/92 respecting income tax provides for tax reductions for each disabled worker based on the degree of disability, and a 50 per cent tax reduction for enterprises employing at least 20 workers, 60 per cent of whom are disabled; in *Honduras*, employers are granted a tax reduction of up to 25 per cent for creating jobs for disabled persons; in *Poland*, subsidies may be allocated by regional labour offices to employers engaging disabled persons, to be used for the payment of social security subscriptions and a proportional tax deduction is granted to enterprises if they hire disabled workers as at least 7 per cent of their workforce. In addition, a full tax exemption is granted to enterprises whose workforce consists of over 50 per cent disabled workers, on condition that 50 per cent of the tax exemption is used for the vocational rehabilitation of people with disabilities; full tax exemption is granted to enterprises set up specifically for the employment of disabled persons and which employ over 20 persons, at least 40 per cent of whom are disabled, on condition that 10 per cent of the exemption is paid back to the National Fund for the Employment and Rehabilitation of People with Disabilities and that the remaining 90 per cent is allocated to the rehabilitation of these persons in the enterprise; in *Romania*, s. 9 of Act No. 57 of 9 June 1992 respecting the hiring of people of disabilities provides, inter alia, for a reduction in turnover tax for enterprises employing over 250 workers which are required to employ a certain number of disabled workers, who meet the mandatory 3 per cent quota. In addition, sheltered workshops over 70 per cent of whose workforce consists of disabled workers are granted a 50 per cent reduction in turnover tax, while sheltered workshops set up for the visually impaired, 50 per cent of whose workforce consists of disabled workers, are entirely tax exempt; *Russian Federation*: the Tax Act of 27 Dec. 1991 and the Act respecting tax on profits of enterprises and organizations provide for a 50 per cent exemption from tax on profits for establishments at least 50 per cent of whose employees are disabled; in *Singapore*, a tax rebate of up to $100,000 may be granted to employers who adapt their workplaces in order to hire people with disabilities; in the *United States*, legislation on tax credits for employment grants a tax credit to employers hiring certain low-income categories, including persons who have undergone vocational rehabilitation; it also provides for this measure specifically in the case of small and medium-sized enterprises hiring people with disabilities; in *Viet Nam*, vocational training establishments and business schools for people with disabilities are exempt from tax, while other establishments are granted tax reductions for each disabled person trained.

---

[124] For example, in the *Russian Federation*, Presidential Decree No. 1303 of 26 Oct. 1992 provides that establishments at least 50 per cent of whose workforce consists of disabled persons are exempt from paying insurance contributions to the National Employment Fund.

CHAPTER 3

Vocational rehabilitation under social security schemes

201. Convention No. 159 lays down, in broad terms, the obligations of member States with respect to people with disabilities and refers to a number of areas in which measures should be taken to ensure equality of opportunity for these persons in the sphere of training and employment. It does not specify the methods to be used, which depend on each country's conditions, practice and possibilities. The different methods that may be adopted to implement the provisions of the Convention are set forth in Recommendation No. 168 for each of the areas of vocational rehabilitation and employment covered by the Convention. In particular, Paragraph 39 of the Recommendation refers to the provisions of three earlier ILO instruments on social security by which Members should be guided in applying its provisions.[1] The Recommendation provides that "wherever possible and appropriate, social security schemes should provide, or contribute to the organization, development and financing of training, placement and employment (including sheltered employment) programmes and vocational rehabilitation services for disabled persons, including rehabilitation counselling".[2] The Recommendation suggests that social security schemes should also provide incentives to disabled persons to seek employment and measures to facilitate a gradual transition into the open labour market.[3]

202. The Committee takes this opportunity to recall the importance the ILO has always attached to the social protection measures that should be provided for each member of society. Such measures follow from the solidarity that is required of the individuals and institutions that make up society, as well as through the share of individual responsibility that each insured person bears in shaping his or her destiny. As regards people with disabilities, as early as 1944 the International Labour Conference adopted a Recommendation inviting member States to organize and develop vocational rehabilitation services, with the administrative and financial support of the social security schemes.[4] Paragraph 16(9) of the annex of this instrument provides that "a person who becomes permanently incapacitated should be expected to resume employment in any occupation which may reasonably be indicated for him, having regard to his remaining strength and ability, his previous experience, and any facilities for training available to him". A few years later, a Convention was adopted under which Members undertook to provide for cooperation, wherever appropriate, between the institutions or government departments administering medical care and the general vocational rehabilitation services, with a view to the re-establishment of people with disabilities in suitable work.[5] The Convention provided further that national laws or regulations might authorize such institutions or departments to ensure provision for the vocational rehabilitation of disabled persons.

---

[1] Art. 35 of the Social Security (Minimum Standards) Convention, 1952 (No. 102); Art. 26 of the Employment Injury Benefits Convention, 1964 (No. 121) and Art. 13 of the Invalidity, Old-Age and Survivors' Benefits Convention, 1967 (No. 128).

[2] Para. 40.

[3] Para. 41.

[4] The Income Security Recommendation, 1944 (No. 67).

203. In 1964, when the provisions of Recommendation No. 99 were being increasingly widely applied in national legislation and practice, a new Convention on social security was adopted which laid down more specific obligations of the public authorities with respect to people with disabilities;[6] it set forth the principle that rehabilitation services should be provided which are designed to "prepare a disabled person wherever possible for the resumption of his previous activity, or, if this is not possible, the most suitable alternative gainful activity, having regard to his aptitudes and capacity".[7] The instrument provides that measures should be taken to further the placement of disabled persons in suitable employment.[8]

204. Lastly, the Invalidity, Old-Age and Survivors' Benefits Convention, 1967 (No. 128), adopted by the International Labour Conference in 1967 again emphasizes the need to provide rehabilitation services for the same purpose[9] and to "take measures to further the placement of disabled persons in suitable employment".[10]

205. As part of preparations for the International Year of Disabled Persons, the International Social Security Association (ISSA) carried out a study on *Special measures provided by social security institutions to permit and facilitate the independent living of disabled persons*,[11] which emphasizes that the approaches taken in different countries, even those with similar political and social structure, sometimes lead in very different directions, "so that it is not always possible to say which of the organizational forms that are used offers the best prospects of success in the rehabilitation of the disabled".[12]

---

[5] Art. 35 of Convention No. 102.

[6] Employment Injury Benefits Convention, 1964 (No. 121).

[7] Art. 26, para. 1(b).

[8] Art. 26, para. 1(c).

[9] Art. 13, para. 1(a).

[10] Art. 13, para. 1(b).

[11] ISSA: Study Group on Rehabilitation: *Special measures provided by social security institutions to permit and facilitate the independent living of disabled persons*, XXth General Assembly, Manila, 28 Oct.-6 Nov. 1980.

206. The Committee has observed that numerous countries have developed measures intended to meet the concerns that prompted the adoption of the above-mentioned instruments. It noted the wide variety of methods of application in legislation and practice in countries where social security schemes are involved in administering and financing the process of vocational reintegration of people with disabilities. In advanced economies there is an increasing tendency for social security institutions to take on greater responsibility for developing certain vocational rehabilitation services. Nonetheless, the Committee has noted the presence of provisions in national legislations leading to differential treatment of disabled persons, in particular based on the origin of the disability, infringing the principle of equality of opportunity and treatment reaffirmed in Articles 3 and 4 of Convention No. 159 and the relevant paragraphs of Recommendation No. 168.

207. For example, while certain countries provide vocational rehabilitation measures under social security schemes as part of the general disability pension system, in others these measures, or some of them, are only available to workers disabled as a result of an occupational injury or disease.

208. This situation is rooted in the historical circumstances prevailing at the time the social security schemes were instituted. In industrialized countries, occupational injuries were the first contingency to attract the legislator's attention. The first occupational injury compensation schemes often appeared long before the general social insurance schemes, which were in fact fairly rudimentary at first, and the benefits they provided were far inferior both in amount and in quality to those offered today in the same circumstances and in the same countries. As the social security schemes developed, measures were taken to coordinate the provisions governing occupational risks with those under other branches of social security. This coordination was part of an overall effort to institute a comprehensive social security system that would not differentiate between beneficiaries on the basis of the origin of their disability, but would treat people with disabilities according to the needs arising out of their disability.

Section I. National provisions relating to occupational injury and disease compensation

209. In accordance with the Employment Injury Benefits Convention, 1964 (No. 121), many social insurance schemes provide that different types of benefit, including disability pensions and vocational rehabilitation services, may be received concurrently. These schemes have the advantage of facilitating and speeding up the process of return to gainful activity for persons who are disabled as a result of an occupational injury or disease.[13] In some countries the social security scheme covers the costs involved in the vocational rehabilitation of workers disabled as a result of occupational injury or disease.[14] In this case rehabilitation measures are very comprehensive and facilitate vocational reintegration, while maintaining or even improving a person's occupational skills.[15]

---

[12] ISSA: *Special measures provided by social security institutions to permit and facilitate the independent living of disabled persons*, Report XXIV, XXIst General Assembly, Geneva, 3-13 Oct. 1983.

210. Social security coverage of vocational rehabilitation may include providing the disabled worker with a range of vocational rehabilitation services, including assistance in finding a job, as well as the reimbursement of the expenses involved in exploring the labour market or moving nearer to a new workplace; services provided to the employer include hiring subsidies or, for example, reimbursement of expenses incurred in adapting the workplace.[16] In some countries, including developing countries, all persons injured at work are legally entitled to vocational rehabilitation services, provided that it is established that they have become unfit to engage in their previous occupation, or can only do so after undergoing rehabilitation.[17]

---

[13] For example, in *Ecuador*, s. 63 of resolution No. 741 of 18 Sep. 1990 of the Higher Council of the Ecuadorean Social Security Institute, approving general regulations of the occupational injury insurance scheme, as amended by resolution No. 851 of 4 Apr. 1995, provides for the implementation of a rehabilitation programme including vocational assessment, vocational training and the possibility of integrating the worker in a new job in the same enterprise; in *El Salvador*, s. 65 of Decree No. 243 of 1968 provides that the Social Insurance Institute shall, as soon as possible, focus its benefits policy on the vocational rehabilitation of persons disabled as a result of occupational injury or disease; in *India*, the Employees' State Insurance Act, No. 34 of 1948, provides for the promotion of measures to improve insured persons' health and well-being and for their re-employment; in *Venezuela*, s. 25 of the Act of 6 Apr. 1967 organizing the social insurance scheme and s. 156 of the general regulations made under it, dated 28 Dec. 1979, provide that the Social Security Institute shall draw up a vocational rehabilitation programme, which may include vocational training in a new occupation or measures to rehabilitate the worker in his or her previous occupation.

[14] For example, the *Malaysian* social insurance scheme, through the provisions of Act No. 4 of 1969, provides for the possibility of promoting the financing of measures under a programme to rehabilitate insured persons and employ them in a new job; in *Senegal*, s. 95 of Act No. 73/37 of 1973 provides that the Social Security Fund shall pay or reimburse the expenses incurred in connection with treatment, medical rehabilitation, vocational retraining and resettlement.

[15] In *Algeria*, Ordinance No. 66-183 of 1966 provides that persons disabled as a result of an employment injury are entitled to special treatment to facilitate vocational rehabilitation, and if they are unfit to perform their previous job, disabled persons are entitled to vocational retraining in an institution or in the service of an employer; in *Canada*, under the laws of all the provincial employment injury benefit schemes, the administrative body responsible for employment injury compensation has extensive powers in the field of vocational rehabilitation and may adjust the conditions for financing rehabilitation according to the injured worker's real needs. In the Province of Quebec, the Workers' Compensation Board may take such measures and make such expenditure as it deems necessary or expedient to assist in reducing any handicap resulting from the insured person's injuries. These measures may focus on the worker or on the employer; in the *Philippines*, under Presidential Decree No. 442 of 1974 instituting a Labor Code, the employment injury compensation scheme should include the establishment of duly equipped and staffed centres to provide a balanced programme of remedial treatment, vocational assessment and preparation for employment, as well as assistance to enable rehabilitees to develop their mental, vocational or social potential; in *Portugal*, under Act No. 2127 of 1965, as amended by Act No. 22 of 14 Aug. 1992, workers whose earning capacity has been impaired as a result of an employment injury or occupational disease may be offered placement services.

Section II. National provisions relating to disability insurance schemes

211. The Committee has observed that the legislation of several countries contains provisions under which the body responsible for administering the disability insurance scheme provides rehabilitation services or pays the cost of treatment,[18] including the benefits and allowances paid to persons undergoing such treatment.[19]

---

[16] In *Canada*, this is the case in the Province of Quebec, inter alia, under the Workers' Compensation Act of 23 May 1985, as amended by the Act of 23 Dec. 1996; in the Province of Ontario, under s. 42 of the Workplace Safety and Insurance Act 1996, the Workplace Safety and Insurance Board decides whether a job reintegration programme should be prepared for a worker and, if so, designates an appropriate job or enterprise for carrying out such a programme.

[17] For example, in *Albania*, s. 45 of Act No. 7703 of 11 May 1993 respecting social insurance; in the *Netherlands*, the Labour Incapacity Insurance Act of 1975, as amended by the Act of 7 July 1993, provides for measures that also include training to enable the worker to engage in a new occupation; in *Senegal*, ss. 109 and 110 of the Act of 4 Aug. 1973 promulgating the Social Security Code.

[18] *Germany, Italy, Netherlands* and *Sweden:* A Zelenka: *Pension systems in the industrialized countries* (ILO). In *Brazil*, the Social Welfare Benefits Plan Act, No. 8213 of 24 July 1991, as amended by Act No. 9032 of 28 Apr. 1995, provides in s. 89 that the social security scheme shall provide appropriate resources for vocational training and rehabilitation, as well as for social rehabilitation. In *Poland*, the social security scheme covers rehabilitation measures such as vocational guidance and vocational training (Council of Europe: *Comparative tables of social security schemes*, 7th edition, 1995).

[19] In *Austria*, provincial legislation guarantees coverage of all people with disabilities who are not covered under federal legislation. In *Canada*, in the Province of Newfoundland, the Act of 1978 respecting the rehabilitation of disabled persons provides for vocational training and employment promotion measures for people with disabilities and the payment of grants to private vocational rehabilitation agencies. In *Finland*, the Social Insurance Institution has a nationwide network of local offices providing vocational rehabilitation counselling. In *Switzerland*, emphasis is placed on vocational rehabilitation measures: under the Disability Insurance Act of 19 June 1959, as last amended on 7 Oct. 1994, insured persons whose disability hampers their choice of occupation or exercise of their previous occupation are entitled to vocational guidance and resettlement in a new occupation if this enables their earning capacity to be preserved or improved, and to access to a placement service or to financial assistance, for example to engage in self-employment. In particular, 35 committees throughout the country are in charge of vocational rehabilitation programmes for disabled persons, and are supported by 13 regional offices staffed by teams of specialists and offering vocational guidance and placement services for people with disabilities.

212. In some countries, vocational training centres are administered directly by the social security schemes.[20]

213. Access to vocational rehabilitation measures under social security schemes is legally guaranteed to all people with disabilities.[21] In one country, pending the establishment of a public social security scheme for all citizens as laid down in the Constitution, the Act concerning the social integration of people with disabilities provides that the Government should adopt measures aimed at ensuring coverage of all people with disabilities under the social security scheme. These measures have been implemented through regulations which provide that the cost of vocational rehabilitation shall be covered by the social security scheme.[22]

214. The Committee observed that some national legislation contains provisions authorizing social security institutions to enter into financial and technical commitments and agreements to promote the employment of people with disabilities.[23]

215. Some systems also provide for financial assistance towards setting up a self-employment activity in the form of loans or subsidies under the disability pension scheme.[24]

[20] In *Austria*, the different branches of social insurance have instituted special rehabilitation commissions which may acquire, establish or operate training centres. In *Belgium*, under the sickness and disability insurance scheme, insured persons, their beneficiaries and their dependants may apply to the College of Physicians/Directors of the National Sickness and Disability Insurance Institution to obtain insurer coverage of the costs incurred in functional and occupational rehabilitation, such as vocational guidance testing fees, course enrolment and hospital entrance examination fees, and the cost of travel, materials and equipment necessary for vocational training. In *Finland*, under the National Pension Act, No. 347/56, as amended by the Vocational Rehabilitation Act, No. 610/91, vocational training and rehabilitation are organized by the social security scheme, which participates in guidance dispensed at the workplace by financing research on rehabilitation, vocational assessment and practical training. The social security scheme is also responsible for providing training to young people with disabilities about to embark on working life. Act No. 608/91 to amend the Occupational Health Care Act provides for the promotion of vocational rehabilitation by setting up vocational rehabilitation counselling offices in occupational health care services. In *France*, under s. 14 of Act No. 75/534 of 30 June 1975 respecting disabled persons, as amended by Act No. 97-60 of 24 Jan. 1997, it is the Technical Commission on Vocational Guidance and Resettlement (COTOREP) which decides whether the health insurance institutions cover the costs of rehabilitation in establishments dispensing vocational rehabilitation or training.

[21] In *France*, disabled persons undergoing vocational traineeships are also entitled to reimbursement of the cost of vocational training or rehabilitation by the sickness insurance institutions, provided that it is an approved traineeship which entitles the trainee to remuneration paid by the National Employment Fund, as the trainee is then covered by the national social security scheme.

[22] *Spain*, Act No. 13/82 of 7 Apr. 1982 (s. 12) and Decree No. 383/84.

[23] For example, in *Brazil*, under s. 223 of the Social Welfare Benefits Plan Act, No. 8213 of 1991.

[24] In *Brazil*, s. 223 of the Social Welfare Benefits Plan Act provides that the National Social Security Institution may enter into financial and technical commitments and agreements to promote the employment of people with disabilities. The disability insurance scheme may provide financial

216. The Committee notes that vocational rehabilitation provided under social security schemes sometimes includes placement and employment services in cooperation with employers and associations.[25] In some countries, disability pension regulations provide, in conformity with the Invalidity, Old-Age and Survivors' Benefits Convention, 1967 (No. 128), that if the health assessment of a disabled person establishes that he or she is able to benefit from vocational rehabilitation services with a view to providing employment, he or she shall not refuse the training or treatment offered, without valid reason.[26] Under this instrument, payment of disability benefit may be suspended if the recipient fails, without valid reason, to avail himself or herself of the rehabilitation services provided.[27] The Committee has observed the effectiveness of such provisions requiring the active collaboration of the persons concerned, which is a key factor in the success of the vocational rehabilitation process. In some countries, the reluctance of some people with disabilities to undertake vocational rehabilitation is often motivated by fear — whether justified or not — of losing their disability pension[28] or by concern that the skill level they expect to attain through vocational rehabilitation will yield an income that is lower than their disability pension. In

---

assistance towards setting up a self-employment activity in the form of a subsidy or loan. In *Switzerland*, insured persons may have access to financial assistance, inter alia, in order to set up a self-employment activity.

[25] In *Germany*, for example, in the context of assistance towards vocational rehabilitation, the Accident Insurance Institution acts in close collaboration with the unemployment insurance institution and other public and private agencies, as well as with employers (ss. 556 to 558 of the Federal Insurance Code); in the *United Kingdom*, specialized services for people with disabilities are provided by local placement and counselling teams. Reintegration in the local job market is facilitated through partnerships with voluntary organizations (European Commission: *Social protection in the Member States of the European Union*, 1995).

[26] For example, in *Australia*, the Social Security Act, No. 26 of 1947, as amended by Act No. 46 of 1991, provides in s. 134 that the Director-General of Social Services responsible for enforcement may, taking account of the age and mental and physical capacity of a person applying for a disability pension or a disability pension recipient, decide that such pension shall not be awarded or shall be withdrawn if the applicant or pensioner does not accept the proposed training or treatment. In *Cyprus*, the Social Insurance Law, No. 41 of 6 Oct. 1980, as amended by Act No. 64 of 1993, provides that recipients of a disability pension may be required to attend vocational training or vocational rehabilitation courses, in which case health costs shall be covered by the social insurance scheme. In *Denmark* and *France*, disability benefit continues to be paid during vocational rehabilitation. In *Norway*, the award of a pension is subject to strict conditions concerning geographical and occupational mobility, the conditions being the more restrictive for persons aged under 35 years (Council of Europe: *Evolution of national social security legislation*, 1992).

[27] In *Luxembourg*, under s. 189 of the Act of 27 July 1987, as amended by the Act of 22 Dec. 1989, respecting old-age, disability and survivors' pension insurance, insured persons aged up to 50 years must undergo the rehabilitation or resettlement measures prescribed by the competent pension fund following the social security medical assessment, failing which payment of the pension shall be suspended.

[28] In *Turkey*, the Rules respecting Medical Operations provides for vocational and functional rehabilitation. Once a recipient has been trained, he or she loses entitlement to a disability pension upon resuming an occupational activity (Council of Europe: *Comparative tables of social security schemes*, 7th edition, 1995).

order to dispel these misgivings and encourage people with disabilities to opt for a formula enabling them to enter working life with the best possible skills, some countries have adopted provisions allowing them to continue receiving at least part of their disability pension during the entire process of vocational rehabilitation.[29]

---

[29] In *Denmark*, the Act of 1921, as amended in 1984, provides for maintenance of disability benefits during vocational rehabilitation; in *Finland*, recipients of rehabilitation benefits the amount of which is equal to daily sickness benefit who attend vocational rehabilitation courses are entitled to benefit equal to the basic unemployment benefit, increased by 10 per cent (Council of Europe: *Evolution of national social security legislation*, 1992); in *France*, under s. R-341-18 of the Social Security Code, disabled persons undergoing traineeships with a view to vocational resettlement or rehabilitation may continue to receive up to 50 per cent of the disability pension from the Social Security Fund throughout the duration of the traineeship.

CHAPTER 4

Difficulties of application of the instruments and prospects for ratification

Section I. Difficulties of application

217. The Committee has observed that difficulties in the application of the provisions of the Convention by ratifying States are often due to the fact that attitudes are slow to change and negative prejudices persist concerning the capacity to work of people with disabilities *(Burkina Faso, Peru)*. Some countries refer to difficulties arising out of the economic transition to a liberalized labour market which is unfavourable to the employment of people with disabilities *(Hungary, Kyrgyzstan, Lithuania, Slovenia)*.

218. The Government of *Finland* reported employers' concern at the heavy obligations imposed on them by the legislation in force with respect to disabled workers, such as the payment of wages during sick leave and the payment of retirement pensions to persons who usually have a shorter working life than other workers. Employers would like the burden to be shared more evenly by society as a whole. According to the trade unions, the social security scheme should be used in order to achieve genuine equalization of opportunities for people with disabilities in a situation marked by mass unemployment which is hardly conducive to their being hired.

219. The Government of *Zambia* referred to an economic situation of dependency on foreign aid as a factor inhibiting a policy of employment of disabled persons.

220. The Government of *Bosnia and Herzegovina* stated that because of the war many establishments providing training and education services for disabled persons have been partly or totally destroyed. It also indicated that the difficult financial situation in which the country is placed, the large number of persons seeking employment, and the difficulties encountered in the transition to a market economy hamper the full application of all the provisions of the Convention.

221. In addition to lack of adequate financial, human and technical resources, the Government of *Ethiopia* cited the absence of coordination in the assignment of areas of competence among the authorities responsible for the various aspects of vocational training and employment of people with disabilities. It plans to request ILO technical assistance with a view to formulating a national policy.

222. *Malawi* and *Uganda* cited difficulties of application in particular with regard to people with mental disabilities, but pointed out that these are being mitigated by joint assistance from UNDP and the ILO.

223. In a report on the application of the Convention communicated in 1992, the Government of the *Netherlands* analysed the difficulty of achieving the statutory quota of 5 per cent of employees in all sectors, including the public sector. It felt that it would be more appropriate to provide incentives to employers by requiring them to periodically submit progress reports on the employment of people with disabilities in the enterprise; failure to meet this obligation would be deemed to be an offence.

224. The Government of *Peru* stated that the selective placement programme for people with disabilities had to be suspended in 1993 as a result of the mass layoffs of staff in charge of implementing the programme and that the government policy of reducing human resources in the public administration is not conducive to the development of measures providing for special treatment of people with disabilities.

225. One of the major obstacles to the promotion of the social integration of people with disabilities cited by the Government of *Colombia* is the general tendency to discriminate against them, both by institutions and by society in general. It felt that it was essential to undertake a vast information campaign to change attitudes in this regard.

226. The Government of the *Philippines* considered it necessary to appoint a national representative for disabled persons, the Sectoral Representative, to promote vocational rehabilitation and employment for disabled persons as a priority on the political agenda. The Government would also be favourable to the establishment of a system of dissuasive sanctions applicable to those who contravene the law and of a wider range of incentives for those wishing to comply with it.

227. According to the Government of the *Czech Republic*, one of the difficulties in applying the Convention lay in the identification of the persons referred to by the relevant texts in regard to the Convention, as the national provisions on people with disabilities were not entirely in harmony with the Convention's definition of the term "disabled person"; the other difficulty consisted in the fact that the recently established rehabilitation centres could not yet be integrated in a comprehensive system to provide placement services as well.

228. According to information supplied by the Government of *Tunisia*, the absence of special measures for disabled persons and of specialized placement staff meant that few disabled persons have been able to obtain work through placement agencies.

229. The Government of *Guatemala* referred to difficulties in the application of Article 3 of the Convention, pointing out that although, in principle, vocational rehabilitation measures were available to all categories of disabled persons, they were not accessible to all disabled persons, for economic reasons.

230. The Government of *Paraguay* cited the lack of necessary resources for research and the shortage of staff for vocational rehabilitation for people with disabilities; it pointed out that coordination between national and foreign institutions was necessary to meet existing needs.

231. A number of reports communicated by governments under Article 22 do not contain any particular information on difficulties in the application of the provisions of the Convention *(Bolivia, Chile, Cuba, Dominican Republic, Ecuador, El Salvador, Panama, Uruguay)*.

Section II. Prospects for ratification

232. Convention No. 159, which came into force in June 1985, has been ratified by 59 countries as at 12 December 1997. The information communicated by a number of governments indicates that ratification is being envisaged. The Government of *Belgium* stated that the conditions had been met and ratification was imminent, but pointed out that there were no specialized training centres for people with disabilities in the German-speaking community and that there was still a discrepancy between legislation and practice as regards equality of opportunity and treatment between disabled persons and other citizens as well as between disabled men and disabled women. The Government of *Portugal* stated that it had begun the procedure for ratification of the Convention, but admitted that much still remained to be done to give full effect to its provisions. The Government of the *United Arab Emirates* recently adopted legislation to give effect to the provisions of the Convention and to the Recommendation and considered ratification of the Convention desirable.

233. The Government of *Lebanon* did not mention any particular difficulty in the application of the Convention and stated that it envisaged ratification. The Government of the *United States* reported that Convention No. 159 was on its short list of Conventions slated for possible ratification.

234. A number of governments stated that they were willing to ratify the Convention but without indicating when *(Honduras, Qatar;* the Government of *Turkey* was considering ratification despite the lack of infrastructure and sheltered workshops; *Zimbabwe)*.

235. Other governments reported a certain degree of conformity of national legislation and practice with the provisions of the Convention, on the whole, without, however, indicating whether they intended to ratify it *(Bahamas, Bahrain, Canada, Republic of Korea)*; while the Government of *Singapore* stated that there was the legislation and political will to meet the needs of disabled persons with regard to vocational rehabilitation and employment, but did not consider it necessary to ratify the Convention. The Government of *New Zealand* considered that a Convention could not be ratified unless all its terms were applied in legislation and practice. Concerning Convention No. 159, the Government felt that the development of a national policy was an essential prerequisite to ratification.

236. The governments of several countries considered that national legislation should be brought into conformity with the provisions of the Convention before they can envisage ratification *(Estonia, Jamaica, Kenya, Saudi Arabia, Syrian Arab Republic, United Kingdom)*. According to *Austria*, the main obstacle to ratification was the absence from national legislation and practice of provisions for consultation with organizations of and for people with disabilities; this obstacle had now been removed through the creation of a National Council of People with Disabilities. The Government of *Benin* explained that since employment legislation is based on employers' freedom of initiative no quota could be imposed on them. However, it considered that it was only a matter of time before they become aware of the problem.

237. The Government of *Bulgaria* did not mention any particular obstacle to ratification but stated that it was being delayed by the situation of economic and social transition in which other priorities had to take precedence.

238. Many countries cited the absence of adequate infrastructures as an obstacle to ratification of the Convention; according to *Mauritius*, the establishment of training centres was an essential prerequisite for equalizing opportunities in relation to employment. The Government of *Poland* stated that the lack of adequate service infrastructures in rural areas, which was impeding ratification, was in the process of being overcome.

239. Some governments which referred to a general problem of inadequate human, material and/or financial resources nevertheless stated that ratification would take place shortly *(Belize, Congo, Indonesia, Trinidad and Tobago)*. The Government of *South Africa* stated that there were budgetary constraints and a lack of personnel making it difficult to undertake action in the fields covered by the Convention and the Recommendation. It pointed out that services for occupational rehabilitation and employment of disabled persons were provided by various organizations whose activities had not yet been coordinated. According to the Government of the *United Republic of Tanzania*, the economic and social conditions imposed by the structural adjustment programme had aggravated the employment situation of people with disabilities, but ratification of the Convention had not been ruled out and could be considered once a tripartite forum had been convened.

240. Some countries emerging from armed conflict cited the aftermath of war as the reason for delaying ratification; *Cambodia* pointed out that relations with the ILO had been resumed only recently and that ratification would be considered at a later stage; the Government of *Chad* considered it premature to consider ratification, although the Trade Union Confederation of Workers deemed it necessary now. The Government of *Viet Nam* was of the view that considerable resources were necessary to solve the problems of people with disabilities, given their large number. As it was not in a position to solve these problems all at once, it preferred to postpone ratification of the Convention.

241. Other countries referred to institutional difficulties (*Romania, Sudan);* the Government of *Sri Lanka* also cited difficulties related to financial resources.

242. A few countries ruled out the possibility of ratification for various reasons: *Bangladesh* stated that it was difficult given the saturation of the labour market and the large number of young non-disabled, skilled jobseekers. *Suriname* expressed reservations as to the usefulness of ratifying the Convention given that practical measures had already been adopted in the areas which it covered.

243. Many countries, while they did not cite particular difficulties preventing ratification of the Convention, did not state their intention of doing so *(Bahamas, Dominica, Islamic Republic of Iran, Italy, Republic of Korea, Morocco, Nicaragua, Papua New Guinea, Thailand)*.

CONCLUDING REMARKS

244. The Committee welcomes the Governing Body's choice of the Vocational Rehabilitation and Employment (Disabled Persons) Convention (No. 159) and Recommendation (No. 168) as a subject for a General Survey. The present survey is the more apposite as it follows the 1996 Special Survey on equality in employment and occupation in respect of Convention No. 111. Both Conventions have as their basis the principle of equality of opportunity and treatment in employment laid down by the Declaration of Philadelphia adopted in 1944 and appended to the ILO Constitution.

245. As the Committee pointed out in its 1996 Special Survey, on acceding to the ILO, member States subscribe unreservedly to this fundamental principle and pledge to undertake all necessary measures to eliminate discrimination and promote equality of opportunity and treatment. The Committee notes that the promotion of employment, with respect for workers' rights, and the participation of employers and trade unions, including for people with disabilities, the need for which was emphasized by the Declaration adopted at the World Summit for Social Development (Copenhagen, March 1995), is a priority objective of the ILO.

246. Convention No. 159 and Recommendation No. 168 were adopted in 1983 by the International Labour Conference in a world context marked by the realization, both individual and collective, that discrimination based on physical or mental disability — which, according to the World Health Organization, affects one-tenth of the world population — is both intolerable and prejudicial to the economy and to the community. The Committee is aware that respect for the principle of equality of opportunity and treatment in employment for disabled persons requires particular attention in an environment characterized by global competition and the deregulation of labour markets.

247. Convention No. 159 is promotional; it sets objectives and lays down the basic principles to be observed in attaining them. Because its provisions are flexible as to the attainment of its objectives, due account can be taken of the situation prevailing in each country. They can be applied to all member States regardless of the stage they have reached in their activities for the vocational rehabilitation and employment of disabled persons. What is required of Members once they have ratified the Convention is that they express their commitment, by declaring a national policy, to set in motion a process to secure equal opportunities for people with disabilities and that they implement that policy, in consultation with the social partners and organizations representing disabled persons. Such a process implies affirmative action to ensure that all categories of disabled persons have access to appropriate vocational rehabilitation measures and employment opportunities in the labour market. Furthermore, as indicated previously in paragraph 55, this is not limited to matters of rehabilitation and training, but incorporates prerequisites for employment environments, which should not cater only for people without disability.

248. The Committee has noted with interest that a large number of countries which have ratified Convention No. 111 have included in their legislation provisions to protect people with disabilities against discrimination in education and employment. Other countries have made appropriate amendments to their legislation following the adoption of Convention No. 159 and Recommendation No. 168.

249. Like most international labour standards, Convention No. 159 prescribes the consultation of representative organizations of employers and workers. It provides in addition for the consultation of representative organizations of or for disabled persons. The Committee wishes to recall yet again the fundamental importance of consultations between government and the social partners, and to emphasize that it is crucial that organizations representing the persons covered by the Convention be consulted on vocational rehabilitation and employment matters. The success of a national policy on this subject depends to a large extent on their needs and priorities being taken into account. For that reason the Committee strongly encourages member States to promote the formation of organizations which are truly representative of people with disabilities, and to facilitate communication between such organizations and the administrative and technical bodies involved in vocational rehabilitation.

250. Governments have not supplied detailed information on the situation of people with disabilities living in rural areas and isolated communities, or in the informal sector. Generally, these persons are doubly affected, by their disability and by their distance from structures for vocational guidance and training, placement and other associated services available for the use of the general population and disabled persons living in urban centres. The Committee has observed that community-based rehabilitation experiments in a number of developing countries have facilitated the integration of some disabled persons into the economic and social life of the communities in which they belong.

251. The Committee recalls that the ILO has assisted a number of governments which so requested in formulating their national policy, and in designing, applying and evaluating programmes concerning the vocational rehabilitation and employment of people with disabilities. It notes in particular the assistance given to certain member States to establish community-based rehabilitation systems adapted to national conditions and resources. The Committee invites member States encountering problems in connection with integration and vocational rehabilitation, as well as the employment of disabled persons, to request ILO technical assistance for the purpose of finding an appropriate response to their training needs with a view to their performing income-generating activities.

252. The Committee has observed a general trend in national practice of favouring, for the vocational rehabilitation of people with disabilities, the use of services for vocational guidance and training, placement, employment and other related services which exist for workers in general, as advocated in Convention No. 159. Consequently, the social and occupational integration of a large proportion of disabled persons has contributed to changing considerably the negative ideas and attitudes in regard to the place and role of people with disabilities in working life and in society. The Committee has noted with interest that a number of countries have adopted an extensive approach to the concept of mental disability.

* * *

253. The Committee notes that in a growing number of countries there has been significant progress as regards the social and occupational integration and reintegration of people with disabilities, particularly where the latter have set about forming organizations in order to gain recognition and influence decisions concerning their active integration in the community. Both the industrialized and the developing countries have achieved such progress by mobilizing the will of individuals and associations, as well as the determination of disabled persons' families. This shows that implementing the provisions of the Convention and the measures advocated by the Recommendation does not necessarily require vast resources, but depends above all on the determination to attain the fixed objectives and the gradual extension of the systems set up for the purpose.

254. The Committee hopes that the General Survey will demonstrate to member States the extent to which these instruments take account of the diversity of national situations and conditions. It emphasizes the importance of participation by the social partners and the representative organizations of or for disabled persons in implementing the provisions of the Convention, the application of which should play a key role in the campaign against economic and social exclusion. The Committee therefore expresses the hope that Convention No. 159 will be ratified by a large number of member States in the near future.

APPENDIX I

Texts of Convention No. 159 and Recommendation No. 168

Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159)

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Sixty-ninth Session on 1 June 1983, and

Noting the existing international standards contained in the Vocational Rehabilitation (Disabled) Recommendation, 1955, and the Human Resources Development Recommendation, 1975, and

Noting that since the adoption of the Vocational Rehabilitation (Disabled) Recommendation, 1955, significant developments have occurred in the understanding of rehabilitation needs, the scope and organisation of rehabilitation services, and the law and practice of many Members on the questions covered by that Recommendation, and

Considering that the year 1981 was declared by the United Nations General Assembly the International Year of Disabled Persons, with the theme "full participation and equality" and that a comprehensive World Programme of Action concerning Disabled Persons is to provide effective measures at the international and national levels for the realisation of the goals of "full participation" of disabled persons in social life and development, and of "equality", and

Considering that these developments have made it appropriate to adopt new international standards on the subject which take account, in particular, of the need to ensure equality of opportunity and treatment to all categories of disabled persons, in both rural and urban areas, for employment and integration into the community, and

Having decided upon the adoption of certain proposals with regard to vocational rehabilitation which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention,

adopts this twentieth day of June of the year one thousand nine hundred and eighty-three the following Convention, which may be cited as the Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983:

PART I. DEFINITION AND SCOPE

Article 1

1. For the purposes of this Convention, the term "disabled person" means an individual whose prospects of securing, retaining and advancing in suitable employment are substantially reduced as a result of a duly recognised physical or mental impairment.

2. For the purposes of this Convention, each Member shall consider the purpose of vocational rehabilitation as being to enable a disabled person to secure, retain and advance in suitable employment and thereby to further such person's integration or reintegration into society.

3. The provisions of this Convention shall be applied by each Member through measures which are appropriate to national conditions and consistent with national practice.

4. The provisions of this Convention shall apply to all categories of disabled persons.

PART II. PRINCIPLES OF VOCATIONAL REHABILITATION AND EMPLOYMENT POLICIES FOR DISABLED PERSONS

Article 2

Each Member shall, in accordance with national conditions, practice and possibilities, formulate, implement and periodically review a national policy on vocational rehabilitation and employment of disabled persons.

Article 3

The said policy shall aim at ensuring that appropriate vocational rehabilitation measures are made available to all categories of disabled persons, and at promoting employment opportunities for disabled persons in the open labour market.

Article 4

The said policy shall be based on the principle of equal opportunity between disabled workers and workers generally. Equality of opportunity and treatment for disabled men and women workers shall be respected. Special positive measures aimed at effective equality of opportunity and treatment between disabled workers and other workers shall not be regarded as discriminating against other workers.

Article 5

The representative organisations of employers and workers shall be consulted on the implementation of the said policy, including the measures to be taken to promote co-operation and co-ordination between the public and private bodies engaged in vocational rehabilitation activities. The representative organisations of and for disabled persons shall also be consulted.

PART III. ACTION AT THE NATIONAL LEVEL FOR THE DEVELOPMENT OF VOCATIONAL REHABILITATION AND EMPLOYMENT SERVICES FOR DISABLED PERSONS

Article 6

Each Member shall, by laws or regulations or by any other method consistent with national conditions and practice, take such steps as may be necessary to give effect to Articles 2, 3, 4 and 5 of this Convention.

Article 7

The competent authorities shall take measures with a view to providing and evaluating vocational guidance, vocational training, placement, employment and other related services to enable disabled persons to secure, retain and advance in employment; existing services for workers generally shall, wherever possible and appropriate, be used with necessary adaptations.

Article 8

Measures shall be taken to promote the establishment and development of vocational rehabilitation and employment services for disabled persons in rural areas and remote communities.

Article 9

Each Member shall aim at ensuring the training and availability of rehabilitation counsellors and other suitably qualified staff responsible for the vocational guidance, vocational training, placement and employment of disabled persons.

PART IV. FINAL PROVISIONS

Article 10

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 11

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

Article 12

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for

registration. Such denunciation shall not take effect until one year after the date on which it is registered.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

Article 13

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.

2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Article 14

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.

Article 15

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 16

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides —

(a) the ratification by a Member of the new revising Convention shall *ipso jure* involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 12 above, if and when the new revising Convention shall have come into force;

(b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 17

The English and French versions of the text of this Convention are equally authoritative.

Vocational Rehabilitation and Employment (Disabled Persons) Recommendation, 1983 (No. 168)

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office and having met in its Sixty-ninth Session on 1 June 1983, and

Noting the existing international standards contained in the Vocational Rehabilitation (Disabled) Recommendation, 1955, and

Noting that since the adoption of the Vocational Rehabilitation (Disabled) Recommendation, 1955, significant developments have occurred in the understanding of rehabilitation needs, the scope and organisation of rehabilitation services, and the law and practice of many Members on the questions covered by that Recommendation, and

Considering that the year 1981 was declared by the United Nations General Assembly the International Year of Disabled Persons, with the theme "full participation and equality" and that a comprehensive World Programme of Action concerning Disabled Persons is to provide effective measures at the international and national levels for the realisation of the goals of "full participation" of disabled persons in social life and development, and of "equality", and

Considering that these developments have made it appropriate to adopt new international standards on the subject which take account, in particular, of the need to ensure equality of opportunity and treatment to all categories of disabled persons, in both rural and urban areas, for employment and integration into the community, and

Having decided upon the adoption of certain proposals with regard to vocational rehabilitation which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation supplementing the Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983, and the Vocational Rehabilitation (Disabled) Recommendation, 1955,

adopts this twentieth day of June of the year one thousand nine hundred and eighty-three the following Recommendation, which may be cited as the Vocational Rehabilitation and Employment (Disabled Persons) Recommendation, 1983:

I. DEFINITIONS AND SCOPE

1. In applying this Recommendation, as well as the Vocational Rehabilitation (Disabled) Recommendation, 1955, Members should consider the term "disabled person" as meaning an individual whose prospects of securing, retaining and advancing in suitable employment are substantially reduced as a result of a duly recognised physical or mental impairment.

2. In applying this Recommendation, as well as the Vocational Rehabilitation (Disabled) Recommendation, 1955, Members should consider the purpose of vocational rehabilitation, as defined in the latter Recommendation, as being to enable a disabled person to secure, retain and advance in suitable employment and thereby to further such person's integration or reintegration into society.

3. The provisions of this Recommendation should be applied by Members through measures which are appropriate to national conditions and consistent with national practice.

4. Vocational rehabilitation measures should be made available to all categories of disabled persons.

5. In planning and providing services for the vocational rehabilitation and employment of disabled persons, existing vocational guidance, vocational training, placement, employment and related services for workers generally should, wherever possible, be used with any necessary adaptations.

6. Vocational rehabilitation should be started as early as possible. For this purpose, health-care systems and other bodies responsible for medical and social rehabilitation should co-operate regularly with those responsible for vocational rehabilitation.

II. VOCATIONAL REHABILITATION AND EMPLOYMENT OPPORTUNITIES

7. Disabled persons should enjoy equality of opportunity and treatment in respect of access to, retention of and advancement in employment which, wherever possible, corresponds to their own choice and takes account of their individual suitability for such employment.

8. In providing vocational rehabilitation and employment assistance to disabled persons, the principle of equality of opportunity and treatment for men and women workers should be respected.

9. Special positive measures aimed at effective equality of opportunity and treatment between disabled workers and other workers should not be regarded as discriminating against other workers.

10. Measures should be taken to promote employment opportunities for disabled persons which conform to the employment and salary standards applicable to workers generally.

11. Such measures, in addition to those enumerated in Part VII of the Vocational Rehabilitation (Disabled) Recommendation, 1955, should include:

(a) appropriate measures to create job opportunities on the open labour market, including financial incentives to employers to encourage them to provide training and subsequent employment for disabled persons, as well as to make reasonable adaptations to workplaces, job design, tools, machinery and work organisation to facilitate such training and employment;

(b) appropriate government support for the establishment of various types of sheltered employment for disabled persons for whom access to open employment is not practicable;

(c) encouragement of co-operation between sheltered and production workshops on organisation and management questions so as to improve the employment situation of their disabled workers and, wherever possible, to help prepare them for employment under normal conditions;

(d) appropriate government support to vocational training, vocational guidance, sheltered employment and placement services for disabled persons run by non-governmental organisations;

(e) encouragement of the establishment and development of co-operatives by and for disabled persons and, if appropriate, open to workers generally;

(f) appropriate government support for the establishment and development of small-scale industry, co-operative and other types of production workshops by and for disabled persons (and, if appropriate, open to workers generally), provided such workshops meet defined minimum standards;

(g) elimination, by stages if necessary, of physical, communication and architectural barriers and obstacles affecting transport and access to and free movement in premises for the training and employment of disabled persons; appropriate standards should be taken into account for new public buildings and facilities;

(h) wherever possible and appropriate, facilitation of adequate means of transport to and from the places of rehabilitation and work according to the needs of disabled persons;

(i) encouragement of the dissemination of information on examples of actual and successful instances of the integration of disabled persons in employment;

(j) exemption from the levy of internal taxes or other internal charges of any kind, imposed at the time of importation or subsequently on specified articles, training materials and equipment required for rehabilitation centres, workshops, employers and disabled persons, and on specified aids and devices required to assist disabled persons in securing and retaining employment;

(k) provision of part-time employment and other job arrangements, in accordance with the capabilities of the individual disabled person for whom full-time employment is not immediately, and may not ever be, practicable;

(l) research and the possible application of its results to various types of disability in order to further the participation of disabled persons in ordinary working life;

(m) appropriate government support to eliminate the potential for exploitation within the framework of vocational training and sheltered employment and to facilitate transition to the open labour market.

12. In devising programmes for the integration or reintegration of disabled persons into working life and society, all forms of training should be taken into consideration; these should include, where necessary and appropriate, vocational preparation and training, modular training, training in activities of daily living, in literacy and in other areas relevant to vocational rehabilitation.

13. To ensure the integration or reintegration of disabled persons into ordinary working life, and thereby into society, the need for special support measures should also be taken into consideration, including the provision of aids, devices and ongoing personal services to enable disabled persons to secure, retain and advance in suitable employment.

14. Vocational rehabilitation measures for disabled persons should be followed up in order to assess the results of these measures.

III. COMMUNITY PARTICIPATION

15. Vocational rehabilitation services in both urban and rural areas and in remote communities should be organised and operated with the fullest possible community participation, in particular with that of the representatives of employers', workers' and disabled persons' organisations.

16. Community participation in the organisation of vocational rehabilitation services for disabled persons should be facilitated by carefully planned public information measures with the aims of:

(a) informing disabled persons, and if necessary their families, about their rights and opportunities in the employment field; and

(b) overcoming prejudice, misinformation and attitudes unfavourable to the employment of disabled persons and their integration or reintegration into society.

17. Community leaders and groups, including disabled persons themselves and their organisations, should co-operate with health, social welfare, education, labour and other relevant government authorities in identifying the needs of disabled persons in the community and in ensuring that, wherever possible, disabled persons are included in activities and services available generally.

18. Vocational rehabilitation and employment services for disabled persons should be integrated into the mainstream of community development and where appropriate receive financial, material and technical support.

19. Official recognition should be given to voluntary organisations which have a particularly good record of providing vocational rehabilitation services and enabling disabled persons to be integrated or reintegrated into the worklife of the community.

IV. VOCATIONAL REHABILITATION IN RURAL AREAS

20. Particular efforts should be made to ensure that vocational rehabilitation services are provided for disabled persons in rural areas and in remote communities at the same level and on the same terms as those provided for urban areas. The development of such services should be an integral part of general rural development policies.

21. To this end, measures should be taken, where appropriate, to:

(a) designate existing rural vocational rehabilitation services or, if these do not exist, vocational rehabilitation services in urban areas as focal points to train rehabilitation staff for rural areas;

(b) establish mobile vocational rehabilitation units to serve disabled persons in rural areas and to act as centres for the dissemination of information on rural training and employment opportunities for disabled persons;

(c) train rural development and community development workers in vocational rehabilitation techniques;

(d) provide loans, grants or tools and materials to help disabled persons in rural communities to establish and manage co-operatives or to work on their own account in cottage industry or in agricultural, craft or other activities;

(e) incorporate assistance to disabled persons into existing or planned general rural development activities;

(f) facilitate disabled persons' access to housing within reasonable reach of the workplace.

V. TRAINING OF STAFF

22. In addition to professionally trained rehabilitation counsellors and specialists, all other persons who are involved in the vocational rehabilitation of disabled persons and the development of employment opportunities should be given training or orientation in rehabilitation issues.

23. Persons engaged in vocational guidance, vocational training and placement of workers generally should have an adequate knowledge of disabilities and their limiting effects, as well as a knowledge of the support services available to facilitate a disabled

person's integration into active economic and social life. Opportunities should be provided for such persons to update their knowledge and extend their experience in these fields.

24. The training, qualifications and remuneration of staff engaged in the vocational rehabilitation and training of disabled persons should be comparable to those of persons engaged in general vocational training who have similar duties and responsibilities; career opportunities should be comparable for both groups of specialists and transfers of staff between vocational rehabilitation and general vocational training should be encouraged.

25. Staff of vocational rehabilitation, sheltered and production workshops should receive, as part of their general training and as appropriate, training in workshop management as well as in production and marketing techniques.

26. Wherever sufficient numbers of fully trained rehabilitation staff are not available, measures should be considered for recruiting and training vocational rehabilitation aides and auxiliaries. The use of such aides and auxiliaries should not be resorted to as a permanent substitute for fully trained staff. Wherever possible, provision should be made for further training of such personnel in order to integrate them fully into the trained staff.

27. Where appropriate, the establishment of regional and subregional vocational rehabilitation staff training centres should be encouraged.

28. Staff engaged in vocational guidance, vocational training, placement and employment support of disabled persons should have appropriate training and experience to recognise the motivational problems and difficulties that disabled persons may experience and, within their competence, deal with the resulting needs.

29. Where appropriate, measures should be taken to encourage disabled persons to undergo training as vocational rehabilitation personnel and to facilitate their entry into employment in the rehabilitation field.

30. Disabled persons and their organisations should be consulted in the development, provision and evaluation of training programmes for vocational rehabilitation staff.

VI. THE CONTRIBUTION OF EMPLOYERS' AND WORKERS' ORGANISATIONS TO THE DEVELOPMENT OF VOCATIONAL REHABILITATION SERVICES

31. Employers' and workers' organisations should adopt a policy for the promotion of training and suitable employment of disabled persons on an equal footing with other workers.

32. Employers' and workers' organisations, together with disabled persons and their organisations, should be able to contribute to the formulation of policies concerning the organisation and development of vocational rehabilitation services, as well as to carry out research and propose legislation in this field.

33. Wherever possible and appropriate, representatives of employers', workers' and disabled persons' organisations should be included in the membership of the boards and committees of vocational rehabilitation and training centres used by disabled persons, which make decisions on policy and technical matters, with a view to ensuring that the vocational rehabilitation programmes correspond to the requirements of the various economic sectors.

34. Wherever possible and appropriate, employers and workers' representatives in the undertaking should co-operate with appropriate specialists in considering the

possibilities for vocational rehabilitation and job reallocation of disabled persons employed by that undertaking and for giving employment to other disabled persons.

35. Wherever possible and appropriate, undertakings should be encouraged to establish or maintain their own vocational rehabilitation services, including various types of sheltered employment, in close co-operation with community-based and other rehabilitation services.

36. Wherever possible and appropriate, employers' organisations should take steps to:

(a) advise their members on vocational rehabilitation services which could be made available to disabled workers;

(b) co-operate with bodies and institutions which promote the reintegration of disabled persons into active working life by providing, for instance, information on working conditions and job requirements which disabled persons have to meet;

(c) advise their members on adjustments which could be made for disabled workers to the essential duties or requirements of suitable jobs;

(d) advise their members to consider the impact that reorganising production methods might have, so that disabled persons are not inadvertently displaced.

37. Wherever possible and appropriate, workers' organisations should take steps to:

(a) promote the participation of disabled workers in discussions at the shop-floor level and in works councils or any other body representing the workers;

(b) propose guidelines for the vocational rehabilitation and protection of workers who become disabled through sickness or accident, whether work-related or not, and have such guidelines included in collective agreements, regulations, arbitration awards or other appropriate instruments;

(c) offer advice on shop-floor arrangements affecting disabled workers, including job adaption, special work organisation, trial training and employment and the fixing of work norms;

(d) raise the problems of vocational rehabilitation and employment of disabled persons at trade union meetings and inform their members, through publications and seminars, of the problems of and possibilities for the vocational rehabilitation and employment of disabled persons.

VII. THE CONTRIBUTION OF DISABLED PERSONS AND THEIR ORGANISATIONS TO THE DEVELOPMENT OF VOCATIONAL REHABILITATION SERVICES

38. In addition to the participation of disabled persons, their representatives and organisations in rehabilitation activities referred to in Paragraphs 15, 17, 30, 32 and 33 of this Recommendation, measures to involve disabled persons and their organisations in the development of vocational rehabilitation services should include:

(a) encouragement of disabled persons and their organisations to participate in the development of community activities aimed at vocational rehabilitation of disabled persons so as to further their employment and their integration or reintegration into society;

(b) appropriate government support to promote the development of organisations of and for disabled persons and their involvement in vocational rehabilitation and employment services, including support for the provision of training programmes in self-advocacy for disabled persons;

(c) appropriate government support to these organisations to undertake public education programmes which project a positive image of the abilities of disabled persons.

VIII. VOCATIONAL REHABILITATION UNDER SOCIAL SECURITY SCHEMES

39. In applying the provisions of this Recommendation, Members should also be guided by the provisions of Article 35 of the Social Security (Minimum Standards) Convention, 1952, of Article 26 of the Employment Injury Benefits Convention, 1964, and of Article 13 of the Invalidity, Old-Age and Survivors' Benefits Convention, 1967, in so far as they are not bound by obligations arising out of ratification of these instruments.

40. Wherever possible and appropriate, social security schemes should provide, or contribute to the organisation, development and financing of training, placement and employment (including sheltered employment) programmes and vocational rehabilitation services for disabled persons, including rehabilitation counselling.

41. These schemes should also provide incentives to disabled persons to seek employment and measures to facilitate a gradual transition into the open labour market.

IX. CO-ORDINATION

42. Measures should be taken to ensure, as far as practicable, that policies and programmes concerning vocational rehabilitation are co-ordinated with policies and programmes of social and economic development (including scientific research and advanced technology) affecting labour administration, general employment policy and promotion, vocational training, social integration, social security, cooperatives, rural development, small-scale industry and crafts, safety and health at work, adaptation of methods and organisation of work to the needs of the individual and the improvement of working conditions.

APPENDIX II

Text of Recommendation No. 99

Vocational Rehabilitation (Disabled) Recommendation, 1955 (No. 99)

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Thirty-eighth Session on 1 June 1955, and

Having decided upon the adoption of certain proposals with regard to the vocational rehabilitation of the disabled, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation, adopts this twenty-second day of June of the year one thousand nine hundred and fifty-five the following Recommendation, which may be cited as the Vocational Rehabilitation (Disabled) Recommendation, 1955:

Whereas there are many and varied problems concerning those who suffer disability, and

Whereas rehabilitation of such persons is essential in order that they be restored to the fullest possible physical, mental, social, vocational and economic usefulness of which they are capable, and

Whereas to meet the employment needs of the individual disabled person and to use manpower resources to the best advantage it is necessary to develop and restore the working ability of disabled persons by combining into one continuous and co-ordinated process medical, psychological, social, educational, vocational guidance, vocational training and placement services, including follow-up,

The Conference recommends as follows:

I. DEFINITIONS

1. For the purpose of this Recommendation —

(a) the term "vocational rehabilitation" means that part of the continuous and co-ordinated process of rehabilitation which involves the provision of those vocational services, e.g. vocational guidance, vocational training and selective placement, designed to enable a disabled person to secure and retain suitable employment; and

(b) the term "disabled person" means an individual whose prospects of securing and retaining suitable employment are substantially reduced as a result of physical or mental impairment.

II. SCOPE OF VOCATIONAL REHABILITATION

2. Vocational rehabilitation services should be made available to all disabled persons, whatever the origin and nature of their disability and whatever their age, provided they can be prepared for, and have reasonable prospects of securing and retaining, suitable employment.

III. PRINCIPLES AND METHODS OF VOCATIONAL GUIDANCE, VOCATIONAL TRAINING AND PLACEMENT OF DISABLED PERSONS

3. All necessary and practicable measures should be taken to establish or develop specialised vocational guidance services for disabled persons requiring aid in choosing or changing their occupations.

4. The process of vocational guidance should include, as far as practicable in the national circumstances and as appropriate in individual cases —

(a) interview with a vocational guidance officer;
(b) examination of record of work experience;
(c) examination of scholastic or other records relating to education or training received;
(d) medical examination for vocational guidance purposes;
(e) appropriate tests of capacity and aptitude, and, where desirable, other psychological tests;
(f) ascertainment of personal and family circumstances;
(g) ascertainment of aptitudes and the development of abilities by appropriate work experiences and trial, and by other similar means;
(h) technical trade tests, either verbal or otherwise, in all cases where such seem necessary;
(i) analysis of physical capacity in relation to occupational requirements and the possibility of improving that capacity;
(j) provision of information concerning employment and training opportunities relating to the qualifications, physical capacities, aptitudes, preferences and experience of the person concerned and to the needs of the employment market.

5. The principles, measures and methods of vocational training generally applied in the training of non-disabled persons should apply to disabled persons in so far as medical and educational conditions permit.

6. (1) The training of disabled persons should, wherever possible, enable them to carry on an economic activity in which they can use their vocational qualifications or aptitudes in the light of employment prospects.

(2) For this purpose, such training should be —

(a) co-ordinated with selective placement, after medical advice, in occupations in which the performance of the work involved is affected by, or affects, the disability to the least possible degree;
(b) provided, wherever possible and appropriate, in the occupation in which the disabled person was previously employed or in a related occupation; and
(c) continued until the disabled person has acquired the skill necessary for working normally on an equal basis with non-disabled workers if he is capable of doing so.

7. Wherever possible, disabled persons should receive training with and under the same conditions as non-disabled persons.

8. (1) Special services should be set up or developed for training disabled persons who, particularly by reason of the nature or the severity of their disability, cannot be trained in company with non-disabled persons.

(2) Wherever possible and appropriate, these services should include, inter alia:

(a) schools and training centres, residential or otherwise;

(b) special short-term and long-term training courses for specific occupations;

(c) courses to increase the skills of disabled persons.

9. Measures should be taken to encourage employers to provide training for disabled persons; such measures should include, as appropriate, financial, technical, medical or vocational assistance.

10. (1) Measures should be taken to develop special arrangements for the placement of disabled persons.

(2) These arrangements should ensure effective placement by means of —

(a) registration of applicants for employment;

(b) recording their occupational qualifications, experience and desires;

(c) interviewing them for employment;

(d) evaluating, if necessary, their physical and vocational capacity;

(e) encouraging employers to notify job vacancies to the competent authority;

(f) contacting employers, when necessary, to demonstrate the employment capacities of disabled persons, and to secure employment for them;

(g) assisting them to obtain such vocational guidance, vocational training, medical and social services as may be necessary.

11. Follow-up measures should be taken —

(a) to ascertain whether placement in a job or recourse to vocational training or retraining services has proved to be satisfactory and to evaluate employment counselling policy and methods;

(b) to remove as far as possible obstacles which would prevent a disabled person from being satisfactorily settled in work.

IV. ADMINISTRATIVE ORGANISATION

12. Vocational rehabilitation services should be organised and developed as a continuous and co-ordinated programme by the competent authority or authorities and, in so far as practicable, use should be made of existing vocational guidance, vocational training and placement services.

13. The competent authority or authorities should ensure that an adequate and suitably qualified staff is available to deal with the vocational rehabilitation, including follow-up, of disabled persons.

14. The development of vocational rehabilitation services should at least keep pace with the development of the general services for vocational guidance, vocational training and placement.

15. Vocational rehabilitation services should be organised and developed so as to include opportunities for disabled persons to prepare for, secure and retain suitable employment on their own account in all fields of work.

16. Administrative responsibility for the general organisation and development of vocational rehabilitation services should be entrusted —

(a) to one authority, or

(b) jointly to the authorities responsible for the different activities in the programme with one of these authorities entrusted with primary responsibility for co-ordination.

17. (1) The competent authority or authorities should take all necessary and desirable measures to achieve co-operation and co-ordination between the public and private bodies engaged in vocational rehabilitation activities.

(2) Such measures should include as appropriate —

(a) determination of the responsibilities and obligations of public and private bodies;

(b) financial assistance to private bodies effectively participating in vocational rehabilitation activities; and

(c) technical advice to private bodies.

18. (1) Vocational rehabilitation services should be established and developed with the assistance of representative advisory committees, set up at the national level and, where appropriate, at regional and local levels.

(2) These committees should, as appropriate, include members drawn from among —

(a) the authorities and bodies directly concerned with vocational rehabilitation;

(b) employers' and workers' organisations;

(c) persons specially qualified to serve by reason of their knowledge of, and concern with, the vocational rehabilitation of the disabled; and

(d) organisations of disabled persons.

(3) These committees should be responsible for advising —

(a) at the national level, on the development of policy and programmes for vocational rehabilitation;

(b) at regional and local levels, on the application of measures taken nationally, their adaptation to regional and local conditions and the co-ordination of regional and local activities.

19. (1) Research should be fostered and encouraged, particularly by the competent authority, to evaluate and improve vocational rehabilitation services for the disabled.

(2) Such research should include continuous or special studies on the placement of the disabled.

(3) Research should also include scientific work on the different techniques and methods which play a part in vocational rehabilitation.

V. METHODS OF ENABLING DISABLED PERSONS TO MAKE USE OF VOCATIONAL REHABILITATION SERVICES

20. Measures should be taken to enable disabled persons to make full use of all available vocational rehabilitation services and to ensure that some authority is made responsible for assisting personally each disabled person to achieve maximum vocational rehabilitation.

21. Such measures should include —

(a) information and publicity on the availability of vocational rehabilitation services and on the prospects which they offer to the disabled;

(b) the provision of appropriate and adequate financial assistance to disabled persons.

22. (1) Such financial assistance should be provided at any stage in the vocational rehabilitation process and should be designed to facilitate the preparation for, and the effective retention of, suitable employment including work on own account.

(2) It should include the provision of free vocational rehabilitation services, maintenance allowances, any necessary transportation expenses incurred during any periods of vocational preparation for employment, and loans or grants of money or the supply of the necessary tools and equipment, and of prosthetic and any other necessary appliances.

23. Disabled persons should be enabled to make use of all vocational rehabilitation services without losing any social security benefits which are unrelated to their participation in these services.

24. Disabled persons living in areas having limited prospects of future employment or limited facilities for preparation for employment should be provided with opportunities for vocational preparation, including provision of board and lodging, and with opportunities for transfer, should they so desire, to areas with greater employment prospects.

25. Disabled persons (including those in receipt of disability pensions) should not as a result of their disability be discriminated against in respect of wages and other conditions of employment if their work is equal to that of non-disabled persons.

VI. CO-OPERATION BETWEEN THE BODIES RESPONSIBLE FOR MEDICAL TREATMENT AND THOSE RESPONSIBLE FOR VOCATIONAL REHABILITATION

26. (1) There should be the closest co-operation between, and the maximum co-ordination of, the activities of the bodies responsible for medical treatment and those responsible for the vocational rehabilitation of disabled persons.

(2) This co-operation and co-ordination of activities should exist —

(a) to ensure that medical treatment and, where necessary, the provision of appropriate prosthetic apparatus, are directed to facilitating and developing the subsequent employability of the disabled persons concerned;

(b) to promote the identification of disabled persons in need of, and suitable for, vocational rehabilitation;

(c) to enable vocational rehabilitation to be commenced at the earliest and most suitable stage;

(d) to provide medical advice, where necessary, at all stages of vocational rehabilitation;

(e) to provide assessment of working capacity.

27. Wherever possible, and subject to medical advice, vocational rehabilitation should start during medical treatment.

VII. METHODS OF WIDENING EMPLOYMENT OPPORTUNITIES FOR DISABLED PERSONS

28. Measures should be taken, in close co-operation with employers' and workers' organisations, to promote maximum opportunities for disabled persons to secure and retain suitable employment.

29. Such measures should be based on the following principles:

(a) disabled persons should be afforded an equal opportunity with the non-disabled to perform work for which they are qualified;

(b) disabled persons should have full opportunity to accept suitable work with employers of their own choice;

(c) emphasis should be placed on the abilities and work capacities of disabled persons and not on their disabilities.

30. Such measures should include —

(a) research designed to analyse and demonstrate the working capacity of disabled persons;

(b) widespread and sustained publicity of a factual kind with special reference to —

  (i) the work performance, output, accident rate, absenteeism and stability in employment of disabled persons in comparison with non-disabled persons employed in the same work;

  (ii) personnel selection methods based on specific requirements;

  (iii) methods of improving work conditions, including adjustment and modification of machinery and equipment, to facilitate the employment of disabled workers;

(c) the means whereby increased liability of individual employers in respect of workmen's compensation premiums may be eliminated;

(d) the encouraging of employers to transfer workers whose working capacity has undergone a change as a result of a physical impairment to suitable jobs within their undertakings.

31. Wherever appropriate in the national circumstances, and consistent with national policy, the employment of disabled persons should be promoted by means such as —

(a) the engagement by employers of a percentage of disabled persons under such arrangements as will avoid the displacement of non-disabled workers;

(b) reserving certain designated occupations for disabled persons;

(c) arranging that seriously disabled persons are given opportunities for employment or preference in certain occupations considered suitable for them;

(d) encouraging the creation and facilitating the operation of co-operatives or other similar enterprises managed by, or on behalf of, disabled persons.

VIII. SHELTERED EMPLOYMENT

32. (1) Measures should be taken by the competent authority or authorities, in co-operation, as appropriate, with private organisations, to organise and develop arrangements for training and employment under sheltered conditions for those disabled persons who cannot be made fit for ordinary competitive employment.

(2) Such arrangements should include the establishment of sheltered workshops and special measures for those disabled persons who, for physical, psychological or geographical reasons, cannot travel regularly to and from work.

33. Sheltered workshops should provide, under effective medical and vocational supervision, not only useful and remunerative work but opportunities for vocational adjustment and advancement with, whenever possible, transfer to open employment.

34. Special programmes for the homebound should be so organised and developed as to provide, under effective medical and vocational supervision, useful and remunerative work in their own homes.

35. Where and to the extent to which statutory regulation of wages and conditions of employment applying to workers generally is in operation it should apply to disabled persons employed under sheltered conditions.

IX. SPECIAL PROVISIONS FOR DISABLED CHILDREN AND YOUNG PERSONS

36. Vocational rehabilitation services for disabled children and young persons of school age should be organised and developed in close co-operation between the authorities responsible for education and the authority or authorities responsible for vocational rehabilitation.

37. Educational programmes should take into account the special problems of disabled children and young persons and their need of opportunities, equal to those of non-disabled children and young persons, to receive education and vocational preparation best suited to their age, abilities, aptitudes and interests.

38. The fundamental purposes of vocational rehabilitation services for disabled children and young persons should be to reduce as much as possible the occupational and psychological handicaps imposed by their disabilities and to offer them full opportunities of preparing for, and entering, the most suitable occupations. The utilisation of these opportunities should involve co-operation between medical, social and educational services and the parents or guardians of the disabled children and young persons.

39. (1) The education, vocational guidance, training and placement of disabled children and young persons should be developed within the general framework of such services to non-disabled children and young persons, and should be conducted, wherever possible and desirable, under the same conditions as, and in company with, non-disabled children and young persons.

(2) Special provision should be made for those disabled children and young persons whose disabilities prevent their participation in such services under the same conditions as, and in company with, non-disabled children and young persons.

(3) This provision should include, in particular, specialised training of teachers.

40. Measures should be taken to ensure that children and young persons found by medical examination to have disabilities or limitations or to be generally unfit for employment —

(a) receive, as early as possible, proper medical treatment for removing or alleviating their disabilities or limitations;

(b) are encouraged to attend school or are guided towards suitable occupations likely to be agreeable to them and within their capacity and are provided with opportunities of training for such occupations;

(c) have the advantage of financial aid, if necessary, during the period of medical treatment, education and vocational training.

X. APPLICATION OF THE PRINCIPLES OF VOCATIONAL REHABILITATION

41. (1) Vocational rehabilitation services should be adapted to the particular needs and circumstances of each country and should be developed progressively in the light of these needs and circumstances and in accordance with the principles laid down in this Recommendation.

(2) The main objectives of this progressive development should be —

(a) to demonstrate and develop the working qualities of disabled persons;

(b) to promote, in the fullest measure possible, suitable employment opportunities for them;

(c) to overcome, in respect of training or employment, discrimination against disabled persons on account of their disability.

42. The progressive development of vocational rehabilitation services should be promoted with the help, where desired, of the International Labour Office —

(a) by the provision, wherever possible, of technical advisory assistance;

(b) by organising a comprehensive international exchange of experience acquired in different countries; and

(c) by other forms of international co-operation directed towards the organisation and development of services adapted to the needs and conditions of individual countries and including the training of the staff required.

APPENDIX III

Ratifications of the Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159)

Date of entry into force: 20.06.1985

States	Ratification registered
Argentina	13.04.1987
Australia	07.08.1990
Azerbaijan	19.05.1992
Bolivia	19.12.1996
Bosnia and Herzegovina	02.06.1993
Brazil	18.05.1990
Burkina Faso	26.05.1989
Chile	14.10.1994
China	02.02.1988
Colombia	07.12.1989
Costa Rica	23.07.1991
Croatia	08.10.1991
Cuba	03.10.1996
Cyprus	13.04.1987
Czech Republic	01.01.1993
Denmark	01.04.1985
Dominican Republic	20.06.1994
Ecuador	20.05.1988
Egypt	03.08.1988
El Salvador	19.12.1986
Ethiopia	28.01.1991
Finland	24.04.1985
France	16.03.1989
Germany	14.11.1989
Greece	31.07.1985
Guatemala	05.04.1994
Guinea	16.10.1995
Hungary	20.06.1984
Iceland	22.06.1990
Ireland	06.06.1986
Japan	12.06.1992
Kyrgyzstan	31.03.1992
Lithuania	26.09.1994
Malawi	01.10.1986
Mali	12.06.1995
Malta	09.06.1988
Netherlands	15.02.1988
Norway	13.08.1984
Pakistan	25.10.1994
Panama	28.01.1994
Paraguay	02.05.1991
Peru	16.06.1986
Philippines	23.08.1991
Russian Federation	03.06.1988
San Marino	23.05.1985
Sao Tome and Principe	17.06.1992
Slovakia	01.01.1993
Slovenia	29.05.1992
Spain	02.08.1990
Sweden	12.06.1984
Switzerland	20.06.1985
Tajikistan	26.11.1993
The former Yugoslav Republic of Macedonia	17.11.1991
Tunisia	05.09.1989
Uganda	27.03.1990
Uruguay	13.01.1988
Yemen	18.11.1991
Yugoslavia	15.12.1987
Zambia	05.01.1989

Total of ratifications: 59

APPENDIX IV

Table of reports due and received on the Vocational Rehabilitation and Employment (Disabled Persons) Convention (No. 159) and Recommendation (No. 168), 1983

(article 19 of the Constitution)

Article 19 of the Constitution of the International Labour Organization provides that Members shall "report to the Director-General of the International Labour Office, at appropriate intervals as requested by the Governing Body" on the position of their law and practice in regard to the matters dealt with in unratified Conventions and Recommendations. The obligations of Members as regards Conventions are laid down in paragraph 5(e) of the above-mentioned article. Paragraph 6(d) deals with Recommendations, and paragraph 7(a) and (b) deals with the particular obligations of federal States. Article 23 of the Constitution provides that the Director-General shall lay before the next meeting of the Conference a summary of the reports communicated to him by Members in pursuance of article 19, and that each Member shall communicate copies of these reports to the representative organizations of employers and workers.

At its 218th (November 1981) Session, the Governing Body decided to discontinue the publication of summaries of reports on unratified Conventions and on Recommendations and to publish only a list of reports received, on the understanding that the Director-General would make available for consultation at the Conference the originals of all reports received and that copies of reports would be available to members of delegations on request.

At its 267th (November 1996) Session, the Governing Body approved new measures for rationalization and simplification.

Reports received under article 19 of the Constitution appear in simplified form in a table annexed to Report III (Part 1B) of the Committee of Experts on the Application of Conventions and Recommendations.

Requests for consultation or copies of reports may be addressed to the secretariat of the Committee on the Application of Standards.

The reports which are listed below refer to the Vocational Rehabilitation and Employment (Disabled Persons) Convention (No. 159) and Recommendation (No. 168), 1983.

Member States	Convention No. 159		Recommendation No. 168
	Year of ratification	Article 19	Article 19
Afghanistan		X	X
Albania		X	X
Algeria		X	X
Angola		X	X
Antigua and Barbuda		X	X
Argentina	1987		R
Armenia		X	X
Australia	1990		R
Austria		R	R
Azerbaijan	1992		X
Bahamas		R	R
Bahrain		R	R
Bangladesh		R	R
Barbados		X	X
Belarus		X	X
Belgium		R	R
Belize		R	R
Benin		R	R
Bolivia	1996	X	X
Bosnia and Herzegovina	1993		X
Botswana		X	X
Brazil	1990		R
Bulgaria		R	R
Burkina Faso	1989		X
Burundi		X	X
Cambodia		R	R
Cameroon		X	X
Canada		R	R
Cape Verde		X	X
Central African Republic		X	X
Chad		R	R
Chile	1994		R
China	1988		R
Colombia	1989		X

Member States	Convention No. 159		Recommendation No. 168
	Year of ratification	Article 19	Article 19
Comoros		X	X
Congo		R	R
Costa Rica	1991		R
Côte d'Ivoire		X	X
Croatia	1991		R
Cuba	1996		R
Cyprus	1987		X
Czech Republic	1985		R
Democratic Republic of the Congo		R	X
Denmark	1985		R
Djibouti		X	X
Dominica		R	R
Dominican Republic	1994		R
Ecuador	1988		X
Egypt	1988		R
El Salvador	1986		X
Equatorial Guinea		X	X
Eritrea		X	X
Estonia		R	R
Ethiopia	1991		R
Fiji		X	X
Finland	1985		R
France	1989		R
Gabon		X	X
Gambia		X	X
Georgia		X	X
Germany	1989		R
Ghana		X	X
Greece	1985		R
Grenada		X	X
Guatemala	1994		X
Guinea	1995		X
Guinea-Bissau		X	X
Guyana		R	R

Member States	Convention No. 159		Recommendation No. 168
	Year of ratification	Article 19	Article 19
Haiti		X	X
Honduras		R	R
Hungary	1984		R
Iceland	1990		X
India		X	X
Indonesia		R	R
Iran, Islamic Republic of		R	X
Iraq		X	X
Ireland	1986		X
Israel		X	X
Italy		R	R
Jamaica		R	R
Japan	1992		R
Jordan		X	X
Kazakhstan		X	X
Kenya		R	R
Korea, Republic of		R	R
Kuwait		R	R
Kyrgyzstan	1992		X
Lao People's Democratic Republic		X	X
Latvia		X	X
Lebanon		R	R
Lesotho		X	X
Liberia		X	X
Libyan Arab Jamahiriya		X	X
Lithuania	1994		X
Luxembourg		X	X
Madagascar		R	R
Malawi	1986		X
Malaysia		X	X
Mali	1995		X
Malta	1988		X
Mauritania		R	R
Mauritius		R	R

Member States	Convention No. 159		Recommendation No. 168
	Year of ratification	Article 19	Article 19
Mexico		R	R
Moldova, Republic of		X	X
Mongolia		X	X
Morocco		R	R
Mozambique		R	R
Myanmar		X	X
Namibia		X	X
Nepal		X	X
Netherlands	1988		X
New Zealand		R	R
Nicaragua		R	R
Niger		X	X
Nigeria		X	X
Norway	1984		R
Oman		X	X
Pakistan	1994		R
Panama	1994		R
Papua New Guinea		R	R
Paraguay	1991		X
Peru	1986		R
Philippines	1991		R
Poland		R	R
Portugal		R	R
Qatar		R	R
Romania		R	R
Russian Federation	1988		R
Rwanda		X	X
Saint Kitts and Nevis		X	X
Saint Lucia		X	X
Saint Vincent and the Grenadines		X	X
San Marino	1985		R
Sao Tome and Principe	1992		X
Saudi Arabia		R	R
Senegal		X	X

Member States	Convention No. 159		Recommendation No. 168
	Year of ratification	Article 19	Article 19
Seychelles		X	X
Sierra Leone		X	X
Singapore		R	R
Slovakia	1993		R
Slovenia	1992		R
Solomon Islands		X	X
Somalia		X	X
South Africa		R	R
Spain	1990		R
Sri Lanka		R	R
Sudan		R	R
Suriname		R	R
Swaziland		X	X
Sweden	1984		R
Switzerland	1985		R
Syrian Arab Republic		R	R
Tajikistan	1993		R
Tanzania, United Republic of		R	R
Thailand		R	R
The former Yugoslav Republic of Macedonia	1991	X	X
Togo		X	X
Trinidad and Tobago		R	R
Tunisia	1989		R
Turkey		R	R
Turkmenistan		X	X
Uganda	1990		R
Ukraine		X	X
United Arab Emirates		R	R
United Kingdom		R	R
United States		R	R
Uruguay	1988		R
Uzbekistan		X	X
Venezuela		R	R
Viet Nam		R	R

Member States	Convention No. 159		Recommendation No. 168
	Year of ratification	Article 19	Article 19
Yemen	1991		X
Zambia	1989		R
Zimbabwe		R	R

R = report received; X = report not received.

Note: In addition, a total of 20 reports have been received in respect of the following non-metropolitan territories: United Kingdom (Anguilla, Bermuda, British Virgin Islands, Falkland Islands (Malvinas), Gibraltar, Guernsey, Isle of Man, Jersey, Montserrat, St. Helena).

Price: 17.50 Swiss francs ISBN 92-2-110652-7